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SALUS POPULI SUPREMA LEX ESTO

"The welfare of the people shall be the supreme law."

ROBIN CARNAHAN

SECRETARY OF STATE

MISSOURI REGISTER

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The rules are codified in the *Code of State Regulations* in this system—

Title	***Code of State Regulations***	**Division**	**Chapter**	**Rule**
1	CSR	10-	1.	010
Department		Agency, Division	General area regulated	Specific area regulated

They are properly cited by using the full citation , i.e., 1 CSR 10-1.010.

Each department of state government is assigned a title. Each agency or division within the department is assigned a division number. The agency then groups its rules into general subject matter areas called chapters and specific areas called rules. Within a rule, the first breakdown is called a section and is designated as (1). Subsection is (A) with further breakdown into paragraph 1., subparagraph A., part (I), subpart (a), item I. and subitem a.

RSMo—The most recent version of the statute containing the section number and the date.

Rules appearing under this heading are filed under the authority granted by section 536.025, RSMo 2000. An emergency rule may be adopted by an agency if the agency finds that an immediate danger to the public health, safety or welfare, or a compelling governmental interest requires emergency action; follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances; follows procedures which comply with the protections extended by the *Missouri* and the *United States Constitutions*; limits the scope of such rule to the circumstances creating an emergency and requiring emergency procedure, and at the time of or prior to the adoption of such rule files with the secretary of state the text of the rule together with the specific facts, reasons and findings which support its conclusion that there is an immediate danger to the public health, safety or welfare which can be met only through the adoption of such rule and its reasons for concluding that the procedure employed is fair to all interested persons and parties under the circumstances.

Rules filed as emergency rules may be effective not less than ten (10) days after filing or at such later date as may be specified in the rule and may be terminated at any time by the state agency by filing an order with the secretary of state fixing the date of such termination, which order shall be published by the secretary of state in the *Missouri Register* as soon as practicable.

All emergency rules must state the period during which they are in effect, and in no case can they be in effect more than one hundred eighty (180) calendar days or thirty (30) legislative days, whichever period is longer. Emergency rules are not renewable, although an agency may at any time adopt an identical rule under the normal rulemaking procedures.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 4—Grants

EMERGENCY AMENDMENT

10 CSR 20-4.023 State Forty Percent Construction Grant Program. The department is amending section (22).

PURPOSE: This amendment revises the payment procedures in section (22) to incorporate language necessary to make timely distribution of state bond funds.

*EMERGENCY STATEMENT: The state of Missouri is authorized to sell bonds for the funding of water pollution control, rural water and sewer grants, and storm water control pursuant to Mo. Const. Art. III, sections 37(e), 37(g), and 37(h), respectively. The Missouri Department of Natural Resources and the Missouri Clean Water Commission are mandated to implement regulations to govern the disbursement of the appropriated proceeds of such bond sales for the purposes expressly stated therein. Interest on such bonds sold is generally exempt from federal income taxation. The **Internal Revenue Code** imposes certain requirements relating to the timely expenditure of such bond sale proceeds. The Missouri Department of Natural Resources and the Missouri Clean Water Commission have a compelling governmental public interest to ensure that unspent sale proceeds of outstanding issues of bonds can be made available for expenditure on a more timely basis, in accordance with the requirements of section 149 of the **Internal Revenue Code** (26 U.S.C. section 149). The promulgation of this emergency amendment is necessary to enable the state to continue to comply with the provisions of the **Internal Revenue Code** that govern the existing bonds so that interest thereon remains exempt from federal income tax in accordance with the expectations of the purchasers of such bonds. The promulgation of this emergency amendment is also necessary to assure that the unspent sale proceeds of such bonds can be made available for the constitutionally stated purposes which protect public health, safety, and welfare. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri** and **United States Constitutions**. The Missouri Department of Natural Resources and Missouri Clean Water Commission have limited the scope of the emergency amendment to the circumstances creating the emergency, and believe that it is fair to all interested persons and parties under the circumstances. This emergency amendment was filed February 1, 2007, becomes effective March 4, 2007, expires August 30, 2007.*

(22) Approval and Payment of Grants.

(B) **Full** *[P]***p**ayment under the grant shall be made at the *[request of the applicant. A payment equal to forty percent (40%) of the allowance will be made immediately after the grant is awarded and the recipient's reimbursement request is received. Additional payments will be made in four (4) installments as follows]* **time of the department's receipt of the executed grant award or grant amendment. The following provisions shall apply**:

1. *[A first installment when not less than twenty-five percent (25%) of the construction of the project is completed based on the contractor's pay estimates]* **The grantee shall establish a separate escrow account with a bank as defined in Chapter 409, section 409-001.102, RSMo**;

2. *[A second installment when not less than fifty percent (50%) of the construction of the project is completed and the plan of operation for the project and start-up training proposal, if required under subsection (20)(A) and (C) respectively of this rule, have been submitted and approved, and an operation and maintenance manual, as required by the department, is submitted]* **The full grant amount, less any payments processed prior to the date of this rule, will be paid to the grantee for deposit into the grantee's established escrow account**;

3. *[A third installment when not less than ninety percent (90%) of the project is completed, the operation and maintenance manual (if required under subsection (20)(B), has been approved and an enacted sewer use and user charge system have been submitted]* **Grant funds in the escrow account may be used to pay up to forty percent (40%) of the costs of subsection (6)(B) of this rule**; and

4. *[A fourth installment when the project is constructed and approved by the department]* **The grantee shall submit the bank statement of the escrow account monthly, within thirty (30) days of the end of the month. If the monthly statement indicates that funds were withdrawn, the grantee shall submit copies of the invoices to document the costs**.

(C) *[Payments]* **Withdrawals** at no time shall exceed forty percent (40%) of the eligible project cost incurred at the time *[payment]* **the withdrawal** is made. Final grant amount will be adjusted *[downward to forty percent (40%) of actual costs at the time of the final reimbursement]* **to reflect the actual project costs as determined by the invoices submitted by the grantee**.

(D) The department will verify project completion after a final inspection by the department has been conducted.

(E) An audit to verify expenditure of grant funds may be made by the department after the completion of the approved project.

Any funds found not expended for purposes listed in subsection (6)(B) of this regulation will be recovered in addition to any applicable penalties.

*AUTHORITY: section 644.026, RSMo [Supp. 1998] **2000**. Original rule filed April 2, 1990, effective Nov. 30, 1990. Amended: Filed Sept. 4, 1991, effective Feb. 6, 1992. Amended: Filed April 14, 1994, effective Nov. 30, 1994. Amended: Filed March 1, 1996, effective Nov. 30, 1996. Amended: Filed June 24, 1999, effective March 30, 2000. Emergency amendment filed Feb. 1, 2007, effective March 4, 2007, expires Aug. 30, 2007.*

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 4—Grants

EMERGENCY AMENDMENT

10 CSR 20-4.030 Grants for Sewer Districts and Certain Small Municipal Sewer Systems. The commission is amending section (4).

PURPOSE: This amendment revises the payment procedures in section (4) to incorporate language necessary to make timely distribution of state bond funds.

*EMERGENCY STATEMENT: The state of Missouri is authorized to sell bonds for the funding of water pollution control, rural water and sewer grants, and storm water control pursuant to Mo. Const. Art. III, sections 37(e), 37(g), and 37(h), respectively. The Missouri Department of Natural Resources is mandated to implement regulations to govern the disbursement of the appropriated proceeds of such bond sales for the purposes expressly stated therein. Interest on such bonds sold is generally exempt from federal income taxation. The **Internal Revenue Code** imposes certain requirements relating to the timely expenditure of such bond sale proceeds. The Missouri Department of Natural Resources has a compelling governmental public interest to ensure that unspent sale proceeds of outstanding issues of bonds can be made available for expenditure on a more timely basis, in accordance with the requirements of section 149 of the **Internal Revenue Code** (26 U.S.C. section 149). The promulgation of this emergency amendment is necessary to enable the state to continue to comply with the provisions of the **Internal Revenue Code** that govern the existing bonds so that interest thereon remains exempt from federal income tax in accordance with the expectations of the purchasers of such bonds. The promulgation of this emergency amendment is also necessary to assure that the unspent sale proceeds of such bonds can be made available for the constitutionally stated purposes which protect public health, safety, and welfare. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri** and **United States Constitutions**. The Missouri Department of Natural Resources has limited the scope of the emergency amendment to the circumstances creating the emergency, and believes that it is fair to all interested persons and parties under the circumstances. This emergency amendment was filed February 1, 2007, becomes effective March 4, 2007, expires August 30, 2007.*

(4) Approval and Payment of Grants.

(B) *[Installment]* **Full** payment*[s]* of the grant **amount** shall be made at the *[request]* **time** of the *[applicant and shall be based on expenditures outlined in paragraph (1)(C)1. of this rule. Payments will be made in equal installments as listed in the following paragraphs in this section;]* **department's receipt of the executed grant award or grant amendment**. **The following provisions shall apply:**

1. *[A first installment will be made when not less than twenty-five percent (25%) of the construction of the project is completed based on the contractor's pay estimates]* **The grantee shall establish a separate escrow account with a bank as defined in Chapter 409, section 409-001.102, RSMo**;

2. *[A second installment will be made when not less than fifty percent (50%) of the construction of the project is completed based on the contractor's pay estimates]* **The full grant award amount, less any payments processed prior to the date of this rule, will be paid to the grantee for deposit into the grantee's established escrow account**;

3. *[A third installment will be made when not less than seventy-five percent (75%) of the construction of the project is completed based on the contractor's pay estimates]* **Grant funds in the escrow account may be used to pay up to fifty percent (50%) of the costs of construction, equipment and construction phase engineering as the costs are incurred. No funds will be withdrawn for the construction of house laterals**; and

4. *[A fourth installment will be made when the project is completed and upon submission of a completed statement of work form provided by the department, departmental approval of a statement of project receipts and expenditures and a final inspection by the department]* **The grantee shall submit the bank statement of the escrow account monthly, within thirty (30) days of the end of the month. If the monthly statement indicates that funds were withdrawn, the grantee shall submit copies of the invoices to document the costs**.

(C) Any cost of work completed after submission of the statement of work completed form shall not be considered an eligible project cost. The grant amount will be reduced, if necessary, to reflect actual *[final]* project costs *[at the time of final payment]* **as determined by the invoices submitted by the grantee**.

(D) The department will verify project completion after a final inspection by the department has been conducted.

*[(D)]***(E)** An audit to verify expenditure of grant funds may be made by the department after the completion of each approved project. **Any funds found not expended for the purposes listed in paragraph (4)(B)3. of this regulation will be recovered.**

*AUTHORITY: section 640.615, RSMo [1994] **2000**. Original rule filed Feb. 2, 1983, effective July 1, 1983. Amended: Filed Nov. 27, 1985, effective Feb. 25, 1986. Amended: Filed Aug. 30, 1989, effective Nov. 27, 1989. Amended: Filed Sept. 4, 1991, effective Feb. 6, 1992. Amended: Filed April 14, 1994, effective Nov. 30, 1994. Amended: Filed March 1, 1996, effective Nov. 30, 1996. Amended: Filed June 24, 1999, effective March 30, 2000. Emergency amendment filed Feb. 1, 2007, effective March 4, 2007, expires Aug. 30, 2007.*

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 4—Grants

EMERGENCY AMENDMENT

10 CSR 20-4.061 Storm Water Grant and Loan Program. The commission is amending sections (2)–(5), (10) and (11) and additionally the department has noted that the stated authority of section 644.031, RSMo is incorrect and is changing it to section 644.570, RSMo.

PURPOSE: This amendment revises the regulation to add the definition for "delegated entity" in (2)(B). Delegated entities are grant and loan recipients that will administer funds to grant subrecipients. A delegated entity will act on behalf of the department when administering sub-grants within their jurisdiction, therefore, references to the department were expanded to include the words "delegated entity" in section (3), General Requirements, in section (4), Required

Documents, and in section (5), Eligible Project Costs. The payment procedures in subsections (II)(A)–(E) are revised to incorporate the procedure necessary to make timely distribution of state bond funds.

*EMERGENCY STATEMENT: The state of Missouri is authorized to sell bonds for the funding of water pollution control, rural water and sewer grants, and storm water control pursuant to Mo. Const. Art. III, sections 37(e), 37(g), and 37(h), respectively. The Missouri Department of Natural Resources and the Missouri Clean Water Commission are mandated to implement regulations to govern the disbursement of the appropriated proceeds of such bond sales for the purposes expressly stated therein. Interest on such bonds sold is generally exempt from federal income taxation. The **Internal Revenue Code** imposes certain requirements relating to the timely expenditure of such bond sale proceeds. The Missouri Department of Natural Resources and the Missouri Clean Water Commission have a compelling governmental public interest to ensure that unspent sale proceeds of outstanding issues of bonds can be made available for expenditure on a more timely basis, in accordance with the requirements of section 149 of the **Internal Revenue Code** (26 U.S.C. section 149). The promulgation of this emergency amendment is necessary to enable the state to continue to comply with the provisions of the **Internal Revenue Code** that govern the existing bonds so that interest thereon remains exempt from federal income tax in accordance with the expectations of the purchasers of such bonds. The promulgation of this emergency amendment is also necessary to assure that the unspent sale proceeds of such bonds can be made available for the constitutionally stated purposes which protect public health, safety, and welfare. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri** and **United States Constitutions**. The Missouri Department of Natural Resources and Missouri Clean Water Commission have limited the scope of the emergency amendment to the circumstances creating the emergency, and believe that it is fair to all interested persons and parties under the circumstances. This emergency amendment was filed February 1, 2007, becomes effective March 4, 2007, expires August 30, 2007.*

(2) Definitions.

(B) Delegated entity. An eligible applicant that has been designated by the department as having sufficient staff and expertise to administer funds to subrecipients within its jurisdiction.

*[(B)]***(C)** Department. The Missouri Department of Natural Resources.

*[(C)]***(D)** Force account. Project planning, design, construction or engineering inspection work performed by the recipient's regular employees and rented or leased equipment.

*[(D)]***(E)** Storm water coordinating committee (SCC). A local committee or group established by eligible applicants involved in project screening and project selection. In cities over twenty-five thousand (25,000) population, the SCC shall consist of a committee or organizational unit designated by the city manager. In St. Louis City and County, the SCC shall consist of a committee or organizational unit designated by the executive director of the Metropolitan St. Louis Sewer District. In all eligible counties, except St. Louis County, an SCC must be established which is representative of the county government and incorporated municipalities within the county.

(3) General Requirements.

(E) Planning Requirements. All storm water projects must be consistent with a comprehensive storm water management plan approved by the department **or a delegated entity** prior to construction advertising. The geographical extent of the planning area may be determined by the department **or the delegated entity**. Projects which are solely for bank stabilization or erosion control, or other projects as determined by the department **or the delegated entity**, need only provide the items listed in paragraphs (3)(E)2., 4., and 6. The plan should include, but is not limited to:

1. A detailed map of the drainage area showing computed drainage acreage;

2. A narrative, a plan layout and estimated construction costs for each proposed project;

3. Tabulated storm water conceptual design parameters for each drainage area, that is, upstream acres, runoff coefficients, time concentrations, return frequencies and so forth. Computer modeling information may be provided;

4. A recommended project improvement priority list;

5. A determination of the flood elevation changes resulting from each project**,** unless the Corps of Engineers has committed to remap the area; and

6. An evaluation of limited structural approaches to storm water control. The plan must analyze the use of applied geomorphology and bioengineering techniques to manage storm water. Projects that are only rehabilitation or replacement of existing structures will require an evaluation that addresses reasonable geomorphological alternatives and, if this approach is not taken, a brief discussion why not. For more complex projects, the evaluation should follow guidance provided by the U.S. Army Corps of Engineers Manual EM 1110-4000, *Engineering and Design—Sedimentation Investigations of Rivers and Reservoirs* or an equivalent guidance manual. Soil bioengineering techniques as described in Bowers, H. 1950, Erosion Control in California Highways, State of California, Department of Public Works, Division of Highways, shall be used unless other appropriate guidance is used and documented. The root causes of flooding, bed and bank erosion, and sediment deposition should be addressed in this plan. The plan should not exacerbate these problems by*[—]***:**

A. Modifications to stream systems that increase bed and bank erosion in modified stream sections;

B. Cause these impacts in sections that are upstream or downstream of the storm management project;

C. Remove or degrade aquatic habitat;

D. Remove the pollutant removal benefits of vegetated stream corridors;

E. Lead to increased flooding upstream or downstream of the storm water management project. Combinations of measures can be employed to manage storm water and retain important stream functions. "Bioengineering" combines mechanical, biological, and ecological concepts to prevent slope failures and erosion. Bioengineering techniques may use bare root stock, stems, branches or trunks of living plants on eroded slopes. Plantings may be incorporated into such configurations as a live stakings, live fascines, or living cribwall. Vegetative plantings and cuttings may be combined with structural elements such as gabion baskets or rock surface armoring. However, the intent should be to minimize hard structural solutions and allow the rooted plantings to do much of the work to hold the soil in place and retain the natural function of streams to convey storm water. Other storm water management options include environmental easements and land acquisition.

(4) Required Documents. Prior to grant award and/or loan closing, the applicant must submit a completed storm water grant/loan application to the department. The following documents must be submitted and approved by the department **or delegated entity** prior to construction advertising. Some documents may be waived by the department **or delegated entity** on a case-by-case basis if it is determined they are not needed for that project:

(5) Eligible Project Costs. Eligible costs include the following:

(I) Construction costs incurred prior to grant/loan award or DNR letter of commitment are eligible providing the planning and design phases of the project were reviewed and approved by the department **or delegated entity** prior to the final construction payment.

(M) The reasonable costs of administrative fees incurred by a delegated entity in connection with each grant.

*[(M)]***(N)** Costs not included in subsections (5)(A)–*[(L)]***(M)** are eligible if determined by the department to be reasonable and necessary for the project.

(10) Bidding Requirements. This section applies to procurement of construction equipment, supplies and construction services in excess of twenty-five thousand dollars ($25,000) awarded by the recipient for any storm water project other than costs directly related to force account work.

(C) Departmental concurrence **or concurrence from the delegated entity** with contract award must be obtained prior to the actual contract award if fewer than three (3) bidders submit bids or if the recipient wishes to award the contract to other than the low bidder. The recipient shall forward the tabulation of bids and a recommendation of contract award to the department **or delegated entity** for review. Executed contract documents must be submitted prior to the first grant payment.

(11) Grant Payments.

(A) For *[projects utilizing one year's funding which include construction and whose]* grants **that** are not matched with loans from this program, **full** payment*[s]* will be made *[in no more than five (5) installments.]* **at the time of the department's receipt of the executed grant award or grant amendment. The following provisions shall apply:**

1. *[For grant awards which include planning, design, and construction in the project scope, the first payment will be made for engineering planning and design with submission of the final invoiced amount or request for allowance, on the reimbursement form provided by the department.]* **Except for a delegated authority, the grantee shall establish a separate escrow account with a bank as defined in Chapter 409, section 409-001.102, RSMo. The requirement to establish an escrow account may be waived for projects that are expected to be complete within three (3) months of grant award.**

2. The *[next three payments may be made when not less than twenty-five percent (25%), fifty percent (50%), and ninety percent (90%) of the construction of the project is completed. Payment must be requested on the form provided by the department and submitted with sufficient documentation. Reimbursement amounts shall be based upon percentage of the grant funds remaining after the first reimbursement is deducted. Projects which include planning only, grant payments will be made in the three (3) installments listed in this subsection based upon invoiced amount]* **full grant amount, less any payments processed prior to the date of this rule, will be paid to the grantee for deposit into the grantee's established escrow account or to the grantee directly if the escrow account requirement has been waived.**

3. *[A final payment may be made when the project is completed and a final inspection is conducted by the department or approval obtained for the management plan.]* **Grant funds paid to the escrow account or to the grantee may be used to pay up to fifty percent (50%) of the costs of section (5) of the rule. No funds may be withdrawn from the escrow account until the following conditions have been met:**

A. Projects involving construction and not paid through a delegated entity must submit and receive departmental concurrence for:

(I) Construction plans and specifications, design criteria and storm water management plan prepared in accordance with subsection (3)(E) of this rule;

(II) Executed contract documents;

B. All construction contracts must be awarded by December 31, 2007. For grants not paid through a delegated entity, it is the grantee's responsibility to submit the construction documents to the department no later than January 31, 2008. Failure to award the major construction contracts by December 31, 2007 will result in departmental recovery of the full grant amount; and

C. For grants for planning projects, the grantee must have all grant funds fully committed to the project by July 1, 2008.

D. Any funds remaining in an escrow account established under this subsection on January 1, 2010 will be recovered by the department.

4. The grantee shall submit the bank statement of the escrow account monthly within thirty (30) days of the end of the month. If the monthly statement indicates that funds were withdrawn, the grantee shall submit copies of the invoices to document the costs. For grantees that have received grant funds when the escrow requirement has been waived, documentation shall be submitted within one hundred twenty (120) days of grant payment.

5. Projects administered through a delegated entity will be paid in accordance with that entity's procedure on file with the department.

[(B) For projects which include basin planning only and whose grants are not matched with loans from this program, reimbursement will be made at 25, 50, 90 and 100% of plan completion as evidenced by invoices.

(C) Payments at no time shall exceed fifty percent (50%) of the eligible project cost incurred at the time payment is requested.

(D) Any cost of work completed after the final inspection by the department shall not be considered as part of the eligible project cost.]

*[(E)]***(B)** An audit to verify eligible project costs will be made *[at the time of final payment and the grant adjusted downward, if necessary, to reflect actual costs]* **by the department after the completion of the inspected project. Any funds found not expended for purposes listed in section (5) of this rule will be recovered in addition to any applicable penalties**.

AUTHORITY: sections 644.026 and [644.031] ***644.570****, RSMo [Supp. 1998]* ***2000****. Original rule filed June 9, 1999, effective March 30, 2000. Emergency amendment filed Feb. 1, 2007, effective March 4, 2007, expires Aug. 30, 2007.*

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Public Drinking Water Program
Chapter 13—Grants and Loans

EMERGENCY AMENDMENT

10 CSR 60-13.010 Grants for Public Water Supply Districts and Small Municipal Water Supply Systems. The department is amending section (4).

PURPOSE: This amendment revises the payment procedures in section (4) to incorporate language necessary to make timely distribution of state bond funds.

EMERGENCY STATEMENT: The state of Missouri is authorized to sell bonds for the funding of water pollution control, rural water and sewer grants, and storm water control pursuant to Mo. Const. Art. III, sections 37(e), 37(g), and 37(h), respectively. The Missouri Department of Natural Resources is mandated to implement regulations to govern the disbursement of the appropriated proceeds of such bond sales for the purposes expressly stated therein. Interest on such bonds sold is generally exempt from federal income taxation. The ***Internal Revenue Code*** *imposes certain requirements relating to the timely expenditure of such bond sale proceeds. The Missouri Department of Natural Resources has a compelling governmental public interest to ensure that unspent sale proceeds of outstanding issues of bonds can be made available for expenditure on a more*

*timely basis, in accordance with the requirements of section 149 of the **Internal Revenue Code** (26 U.S.C. section 149). The promulgation of this emergency amendment is necessary to enable the state to continue to comply with the provisions of the **Internal Revenue Code** that govern the existing bonds so that interest thereon remains exempt from federal income tax in accordance with the expectations of the purchasers of such bonds. The promulgation of this emergency amendment is also necessary to assure that the unspent sale proceeds of such bonds can be made available for the constitutionally stated purposes which protect public health, safety, and welfare. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri** and **United States Constitutions**. The Missouri Department of Natural Resources has limited the scope of the emergency amendment to the circumstances creating the emergency, and believes that it is fair to all interested persons and parties under the circumstances. This emergency amendment was filed February 1, 2007, becomes effective March 4, 2007, expires August 30, 2007.*

(4) Approval and Payment of Grants.

(B) *[Installment]* **Full** payment*[s]* of the grant **amount** for **the** construction project*[s]* **less any payments processed prior to the date of this rule** shall be made at the *[request]* **time** of the *[applicant and shall be based on the expenditures outlined in paragraph (2)(E)1. of this rule. Payments will be made in equal installments as follows]* **department's receipt of the executed grant or grant amendment. The following provisions shall apply**:

1. *[A first installment will be made when not less than twenty-five percent (25%) of the construction of the project is completed]* **The grantee shall establish a separate escrow account with a bank as defined in Chapter 409, section 409-001.102, RSMo**;

2. *[A second installment will be made when not less than fifty percent (50%) of the construction of the project is completed]* **The full grant award amount, less any payments processed prior to the date of this rule, will be paid to the grantee for deposit into the grantee's established escrow account**;

3. *[A third installment will be made when not less than seventy-five percent (75%) of the construction of the project is completed]* **Grant funds in the escrow account may be used to pay up to fifty percent (50%) of the costs of construction, equipment and construction phase engineering as the costs are incurred**; and

4. *[A fourth installment will be made after the project is completed, appropriate receipts and expenditures have been submitted and approved by the department, a consultant's statement of work completion has been received, and a final inspection has been performed by department personnel and construction is approved by the department]* **The grantee shall submit the bank statement of the escrow account monthly, within thirty (30) days of the end of the month. If the monthly statement indicates that funds were withdrawn, the grantee shall submit copies of the invoices to document the costs**.

(C) Any cost of work completed after the department's final inspection approval shall not be an eligible project cost. **The grant amount will be reduced, if necessary, to reflect actual project costs as determined by the invoices submitted by the grantee.**

(D) An audit to verify expenditure of grant funds may be made by the department after the completion of each approved project. **Any funds found not expended for the purposes listed in paragraph (4)(B)3. of this regulation will be recovered.**

*AUTHORITY: section 640.615, RSMo 2000. This rule was previously filed as 10 CSR 60-2.020 Sept. 21, 1973, effective Oct. 1, 1973. For intervening history, please consult the **Code of State Regulations**. Emergency amendment filed Feb. 1, 2007, effective March 4, 2007, expires Aug. 30, 2007.*

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 51—Broker-Dealers, Agents, Investment Advisers, and Investment Adviser Representatives

EMERGENCY AMENDMENT

15 CSR 30-51.180 Exemptions from Registration for Broker-Dealers, Agents, Investment Advisers, and Investment Adviser Representatives. The division is adding a new section (6).

PURPOSE: This amendment provides certain advisers to pooled investment vehicles in the state of Missouri an exemption from the registration requirements of the Missouri Securities Act of 2003.

EMERGENCY STATEMENT: The promulgation of this emergency amendment is necessary to preserve the compelling governmental interest of providing an exemption from registration for certain investment advisers to pooled investment funds in the state of Missouri. This emergency amendment is required for the following reasons:

Federal law regulating investment advisers to pooled funds has recently changed. A federal court invalidated rules which had authorized the United States Securities and Exchange Commission to require registration of certain investment advisers to pooled funds. These investment advisers are no longer required to federally register. Simultaneously, more Americans are investing, whether directly or indirectly (such as through pensions or mutual funds), in pooled funds. With a sudden lack of federal oversight, but an ever increasing number of affected investors, regulation of investment advisers to funds has taken on added urgency with state regulators.

The Securities Division has been in discussion with entities ("fund advisers") which organize, offer advice, and manage certain funds in the state of Missouri. After the changes in the federal jurisdiction, some of these fund advisers have sought clarification from the Securities Division regarding their registration status under the Missouri Securities Act of 2003. Membership in the funds managed by these fund advisers is privately offered only to other entities or high net worth individuals. Moreover, these funds and their fund advisers have been operating in and benefiting the state of Missouri for years.

Under the Missouri Securities Act of 2003, these fund advisers meet the broad definition of "investment advisers." As a result, these fund advisers are potentially subject to registration requirements under Missouri's securities laws. Continued uncertainty concerning registration requirements would only encourage these fund advisers to seek opportunities in other jurisdictions. Immediate clarification in this area will strengthen Missouri's competitiveness and avoid a potentially negative financial impact on the state.

The funds managed by these fund advisers are highly capitalized. For example, fund advisers to the top ten (10) funds in St. Louis and Kansas City manage over $1.5 billion slated for investment in Missouri's start-up businesses and research facilities. These highly capitalized private pooled funds foster Missouri's capital markets; support innovation in technology and life sciences; and promote regional growth and employment. Prompt clarification by the Securities Division of a registration exemption will benefit local and regional employment and will avoid possible job loss in the state of Missouri. Moreover, these funds provide a significant source of tax revenue to the state of Missouri, which benefits all Missourians.

*The state of Missouri including the secretary of state's office has a compelling governmental interest in providing an exemption from the registration requirements for qualifying fund advisers in the state of Missouri. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri** and **United States Constitutions**. The division believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment filed February 2, 2007, effective February 12, 2007, to be terminated March 5, 2007.*

(6) Exemption from Investment Adviser Registration for Certain Investment Advisers.

(A) An investment adviser is exempt from the registration requirements of section 409.4-403 provided the following conditions are met:

1. The investment adviser is exempt from registration under section 203(b)(3) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3(b)(3)); and

2. The investment adviser engages in the business of providing investment advice to fifteen (15) or fewer clients.

(B) Definitions. For the purposes of this section:

1. "Assets under management" includes any amount payable to such entity pursuant to a firm agreement or similar binding commitment pursuant to which a person has agreed to acquire an interest in, or make capital contributions to, the entity upon demand of such entity;

2. The term "client" means:

A. An entity that:

(I) Would be an investment company under section 3(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-3(a)) but for the exception provided at section 3(c)(1) or 3(c)(7) of that act;

(II) Only has owners that qualified at the time that they invested as an "accredited investor" as defined at 17 CFR 230.501(a); and

(III) Immediately after entering into the contract with the investment adviser has at least five (5) million dollars (valued at historical cost) in assets under management with the investment adviser; or

B. A qualified client as that term is defined at 17 CFR section 275.205-3(d)(1)(iii).

*AUTHORITY: sections 409.4-401(d) 409.4-402(b)(9), 409.4-403(b)(3), 409.4-404(b)(2), and 409.6-605, RSMo Supp. [2003] **2006**. Original rule filed Dec. 28, 2001, effective July 30, 2002. Emergency amendment filed Aug. 27, 2003, effective Sept. 12, 2003, expired March 9, 2004. Amended: Filed Aug. 28, 2003, effective Feb. 29, 2004. Amended: Filed May 26, 2004, effective Nov. 30, 2004. Emergency amendment filed Feb. 2, 2007, effective Feb. 12, 2007, to be terminated March 5, 2007.*

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 51—Broker-Dealers, Agents, Investment Advisers, and Investment Adviser Representatives

ORDER TERMINATING EMERGENCY AMENDMENT

By the authority vested in the commissioner of securities under section 115.225, RSMo Supp. 2006, the secretary hereby terminates an emergency amendment effective March 5, 2007.

15 CSR 30-51.180 Exemptions from Registration for Broker-Dealers, Agents, Investment Advisers, and Investment Adviser Representatives **is terminated**.

A notice of emergency rulemaking containing the text of the emergency amendment was published in the *Missouri Register* on March 1, 2007 (32 MoReg 399–400).

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 51—Broker-Dealers, Agents, Investment Advisers, and Investment Adviser Representatives

EMERGENCY AMENDMENT

15 CSR 30-51.180 Exemptions from Registration for Broker-Dealers, Agents, Investment Advisers, and Investment Adviser Representatives. The commissioner is adding section (6).

PURPOSE: This amendment provides certain advisers to pooled investment vehicles in the state of Missouri an exemption from the registration requirements of the Missouri Securities Act of 2003.

EMERGENCY STATEMENT: The promulgation of this emergency amendment is necessary to preserve the compelling governmental interest of providing an exemption from registration for certain investment advisers to pooled investment funds in the state of Missouri. This emergency amendment is required for the following reasons:

Federal law regulating investment advisers to pooled funds has recently changed. A federal court invalidated rules which had authorized the United States Securities and Exchange Commission to require registration of certain investment advisers to pooled funds. These investment advisers are no longer required to federally register. Simultaneously, more Americans are investing, whether directly or indirectly (such as through pensions or mutual funds), in pooled funds. With a sudden lack of federal oversight, but an ever increasing number of affected investors, regulation of investment advisers to funds has taken on added urgency with state regulators.

The Securities Division has been in discussion with entities ("fund advisers") which organize, offer advice, and manage certain funds in the state of Missouri. After the changes in the federal jurisdiction, some of these fund advisers have sought clarification from the Securities Division regarding their registration status under the Missouri Securities Act of 2003. Membership in the funds managed by these fund advisers is privately offered only to other entities or high net worth individuals. Moreover, these funds and their fund advisers have been operating in and benefiting the state of Missouri for years.

Under the Missouri Securities Act of 2003, these fund advisers meet the broad definition of "investment advisers." As a result, these fund advisers are potentially subject to registration requirements under Missouri's securities laws. Continued uncertainty concerning registration requirements would only encourage these fund advisers to seek opportunities in other jurisdictions. Immediate clarification in this area will strengthen Missouri's competitiveness and avoid a potentially negative financial impact on the state.

The funds managed by these fund advisers are highly capitalized. For example, fund advisers to the top ten (10) funds in St. Louis and Kansas City manage over $1.5 billion slated for investment in Missouri's start-up businesses and research facilities. These highly capitalized private pooled funds foster Missouri's capital markets; support innovation in technology and life sciences; and promote regional growth and employment. Prompt clarification by the Securities Division of a registration exemption will benefit local and regional employment and will avoid possible job loss in the state of Missouri. Moreover, these funds provide a significant source of tax revenue to the state of Missouri, which benefits all Missourians.

*The state of Missouri including the secretary of state's office has a compelling governmental interest in providing an exemption from the registration requirements for qualifying fund advisers in the state of Missouri. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri** and **United States Constitutions**. The division believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed February 23, 2007 effective March 5, 2007, expires Aug. 10, 2007.*

(6) Exemption from Investment Adviser Registration for Certain Investment Advisers.

(A) An investment adviser is exempt from the registration requirements of section 409.4-403 provided the following conditions are met:

1. The investment adviser is exempt from registration under section 203(b)(3) of the Investment Advisers Act of 1940 (15 U.S.C. section 80b-3(b)(3)); and

2. The investment adviser engages in the business of providing investment advice to fifteen (15) or fewer clients.

(B) Definitions. For the purposes of this section:

1. "Assets under management" includes amounts currently under management and any amount payable to such entity pursuant to a firm agreement or similar binding commitment pursuant to which a person has agreed to acquire an interest in, or make capital contributions to, the entity upon demand of such entity;

2. The term "client" means an entity that:

A. Would be an investment company under section 3(a) of the Investment Company Act of 1940 (15 U.S.C. section 80a-3(a)) but for the exception provided by sections 3(c)(1) or 3(c)(7) of that Act;

B. Only has owners that qualified at the time that they invested as either:

(I) An "accredited investor" as defined at 17 CFR section 230.501(a); or

(II) A qualified client as that term is defined at 17 CFR section 275.205-3(d)(1)(iii); and

C. Immediately after entering into the contract with the investment adviser has at least five (5) million dollars (valued at historical cost) in assets under management with the investment adviser.

*AUTHORITY: sections 409.4-401(d) 409.4-402(b)(9), 409.4-403(b)(3), 409.4-404(b)(2), and 409.6-605, RSMo Supp. [2003] **2006**. Original rule filed Dec. 28, 2001, effective July 30, 2002. Emergency amendment filed Aug. 27, 2003, effective Sept. 12, 2003, expired March 9, 2004. Amended: Filed Aug. 28, 2003, effective Feb. 29, 2004. Amended: Filed May 26, 2004, effective Nov. 30, 2004. Emergency amendment filed Feb. 2, 2007, effective Feb. 12, 2007, to be terminated March 5, 2007. Emergency amendment filed Feb. 23, 2007, effective March 5, 2007, expires Aug. 10, 2007. A proposed amendment covering this same material is published in this issue of the **Missouri Register**.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 500—Property and Casualty
Chapter 5—Professional Malpractice

EMERGENCY RULE

20 CSR 500-5.020 Medical Malpractice Insurance Rate Filings

PURPOSE: This rule effectuates the provisions of sections 383.203 and 383.206, RSMo Supp. 2006, regarding rates and supplementary rate information required to be to be filed before use.

*EMERGENCY STATEMENT: This emergency rule outlines medical malpractice insurance rate filing requirements. This emergency rule is necessary to preserve the public welfare of Missouri citizens by ensuring that medical malpractice insurance rates are not unfair, inadequate or unfairly discriminatory. Between August 2006 and February 1, 2007, representatives for the Department of Insurance, Financial Institutions and Professional Registration met with many industry and consumer representatives to determine how to best implement House Bill No. 1837, Laws 2006 in order to avoid industry insolvency. House Bill No. 1837 has been in effect since August 28, 2006, but is unenforceable by the department without promulgated rules. Based on industry input it is critical that the department now promptly put implementing rules in effect to regulate rates and avoid insolvency due to unregulated rates. As a result, the Missouri Department of Insurance, Financial Institutions and Professional Registration finds an immediate danger to the public welfare and a compelling governmental interest, which requires emergency action. The scope of this emergency rule is limited to the conditions creating the emergency and complies with the protections extended in the **Missouri** and **United States Constitutions**. In developing this emergency rule, representatives of the insurance industry were consulted. The department believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency rule was filed on February 1, 2007, effective February 13, 2007, expires August 10, 2007.*

(1) For purposes of the rules in this chapter:

(A) An insurer's surplus as regards policyholders (also referred to as policyholders' surplus) will be as shown by examination conducted by or on the order of the director. Where no examination has been conducted as of a certain date, an insurer's surplus as regards policyholders will be shown by the insurer's filed financial statement as of the December 31 next preceding such date, except as otherwise ordered by the director;

(B) An insurer's required policyholders' surplus is equal to:

1. In the case of an insurer who is subject to the provisions of sections 375.1250 to 375.1275, RSMo, the insurer's authorized control level risk-based capital; or

2. In the case of an insurer who is not subject to the provisions of sections 375.1250 to 375.1275, RSMo, the insurer's required minimum statutory capital and surplus, but not less than zero;

(C) An assessment is a special charge made in addition to the premium charged pursuant to the insurer's filed rate plan;

(D) An insurer's modified surplus is the sum of:

1. The insurer's policyholders' surplus as of the December 31 next preceding;

2. Assessments levied and collected by the insurer since such December 31; and

3. The insurer's policyholders' surplus paid in since such December 31;

(E) An insurer shall provide a summary of its Missouri experience on a form required to be filed by the director. Such experience shall be considered in the insurer's rates and shall:

1. In the case of an insurer organized pursuant to the provisions of Chapter 383, RSMo, be allocated totally to this state and totally to medical malpractice insurance premiums;

2. In the case of any other insurer:

A. Premium, losses, allocated loss adjustment expenses, commissions, and local taxes shall be Missouri experience;

B. Policyholder surplus and other acquisition expenses shall be allocated to this state in the same proportion as the insurer's medical malpractice gross direct premiums; and

C. Investment income shall be allocated to this state in the same proportion as the insurer's medical malpractice gross direct loss and allocated loss adjustment expense case basis reserves;

(F) A base rate is the cost of insurance per exposure unit prior to any application of individual risk variations based on loss or expense considerations;

(G) A classification is a grouping of insurance risks according to a classification system used by an insurer;

(H) A classification system is a schedule of classifications and a rule or set of rules used by an insurer for determining the classification applicable to an insured;

(I) A rate is the cost of insurance per exposure unit;

(J) A rating plan is a rule or set of rules used by an insurer to calculate premium for an insured, and the parameter values used in such calculation, after application of classification premium rates to units of exposure;

(K) A rating system is a collection of rating plans to be used by an insurer, rules for determining which rating plans are applicable to an insured, a classification system, and other rules used by an insurer for determining contractual consideration for insured;

(L) A schedule rating plan means any rating plan or system whereby a base rate is adjusted or modified based upon a schedule of debits and credits reflecting observable rating characteristics, not reflected in the base rate itself, expected to affect an individual insured's future loss exposure or expenses;

(M) Supplementary rate information means any manual, minimum premium, rating plan, rating schedule or plan of policy writing rules, rating rules, classification system, schedule rating system, territory codes and descriptions, rating plans and any other similar information needed to determine the applicable premium for an insured. Supplementary rating information includes factors and relativities, such as increased limits factors, classification relativities, deductible relativities or similar factors; and

(N) Supporting actuarial data includes:

1. The experience and judgment of the insurer and the experience or data of other insurers or rating organizations relied upon by the insurer;

2. The interpretation of any statistical data relied upon by the insurer;

3. Descriptions of methods used in making the rates; and

4. Actuarial, technical or other services made available by a rating organization, or other similar information required to be filed by the director.

(2) Each insurer shall file its rates and supplementary rate information and shall provide the insurer's Missouri experience on a form provided by the director, or in such form as approved by the director. Except as otherwise ordered by the director, each filing of rates and supplementary rate information shall also include supporting actuarial data. The director may, based on her or his sole discretion, require an insurer to re-file its rates and supplementary rate information. Rates and supplementary rate information filed shall include the following information:

(A) Each base rate filed, including the description of which health care provider such base rate applies to;

(B) A complete description of any charge, credit, debit or discount to any base rate;

(C) The premium, loss and loss adjustment experience on which such rates are based, including:

1. Identifying Missouri premium resulting from the insurer's filed rates;

2. Identifying premium resulting from section 383.035.7, RSMo Supp. 2006 consent to rate surcharges in excess of the insurer's filed rates;

3. Identifying whether the loss and loss adjustment experience is Missouri experience and whether such experience is the insurance company's or the insurance industry's experience; and

4. Explaining how the experience was used in developing such rates;

(D) How the insurer's investment income and investment losses and administrative costs:

1. Were considered in developing such rates; and

2. Were allocated to the state of Missouri;

(E) The extent to which the locale in which a health care practice is occurring affects such rates;

(F) The extent to which inflation, including a description of the type of inflation, affects such rates;

(G) A description of any rate of return on investment for the owners or shareholders of the insurer, including a comparison of the rate of return on similar investments;

(H) A description of any other factors used in developing the rates; and

(I) A certification by an officer of the insurer that supporting actuarial data has been filed with the rates and supplementary rate information or has not been filed pursuant to order of the director.

(3) Rates shall not be:

(A) Inadequate as determined by 20 CSR 500-5.025 Determination of Inadequate Rates;

(B) Excessive as determined by 20 CSR 500-5.026 Determination of Excessive Rates; or

(C) Unfairly discriminatory as determined by 20 CSR 500-5.027 Determination of Unfairly Discriminatory Rates.

(4) Experience.

(A) All projections and rate-making factors shall be supported by the actual experience of the insurer where available and only to the extent not available to the actual experience of other medical malpractice insurers.

(B) All out-of-state experience used in support of the filing shall be based upon the allocation to this state as provided in subsection (1)(F) of the applicable entries.

(C) Projected losses and loss adjustment expenses shall be explained by the insurer and shall reflect sound actuarial judgment based upon the actual experience of the insurer as provided in section 383.203, RSMo Supp. 2006 and the rules in this chapter.

(5) Based on the information filed pursuant to section (2) of this rule and any other information and factors available to the director, the director shall review an insurer's rate filing and determine whether the rates, including the base rates, are excessive, inadequate or unfairly discriminatory. In addition, the director shall consider that:

(A) Schedule rating plans are subject to the standards of section 383.206.4, RSMo Supp. 2006. Schedule rating plans shall meet all the following requirements:

1. A schedule rating plan shall be actuarially supported. To be "actuarially supported" within the meaning of section 383.206.4, RSMo Supp. 2006, the rating criteria shall meet the following requirements, compliance with which requirements shall be demonstrated in the insurer's filed supplementary rate information, except that compliance with part (5)(A)1.B.(I) may be demonstrated in the insurer's supporting actuarial data:

A. The rating criteria must be objectively determined in that it is based on readily verifiable and measurable facts that cannot be easily manipulated; and

B. The rating criteria must either:

(I) Be supported by statistically credible historical experience; or

(II) Be limited:

(a) In the aggregate effect of all schedule rating charges, debits, credits and discounts to all policies in force to a maximum of not more than plus or minus five percent (±5%) during any one (1)-year period; and

(b) In the aggregate effect of all schedule rating debits and credits applied to any single policy to a maximum of plus or minus fifteen percent (±15%) during any one (1)-year period;

2. An insurer shall not use a schedule rating plan in such a way as to avoid rate standards or rate filing requirements;

3. All schedule rating debits and credits that an insurer applies to a policy shall be based on evidence that is maintained on file with the insurer and such evidence shall be retained for two (2) calendar years;

4. All insurers shall provide two (2) weeks prior notice to the policyholder of any change to the policyholder's premium due to a change in schedule rating debits or credits and the reasons therefore;

(B) Loss experience (see subsection (2)(C) of this rule) is subject to the provisions of section 383.206.2(4), RSMo Supp. 2006;

(C) Loss adjustment experience (see subsection (2)(C) of this rule) is subject to the provisions of section 383.206.2(9), RSMo Supp. 2006 provided that loss adjustment experience will be presumed unreasonable unless the loss adjustment experience complies with the same standards set forth in section 383.206.2(4), RSMo Supp. 2006 as apply to loss experience;

(D) Investment income and investment losses (see subsection (2)(D) of this rule) are subject to the provisions of section 383.206.2(5), RSMo Supp. 2006;

(E) Administrative costs (see subsection (2)(D) of this rule) are subject to the provisions of section 383.206.2(8), RSMo Supp. 2006;

(F) The locale in which a health care practice is occurring (see subsection (2)(E) of this rule) is subject to the provisions of section 383.206.2(6), RSMo Supp. 2006;

(G) Inflation (see subsection (2)(F) of this rule) is subject to the

provisions of section 383.206.2(7), RSMo Supp. 2006;

(H) Rate of return (see subsection (2)(G) of this rule) is subject to the provisions of section 383.206.2(10), RSMo Supp. 2006;

(I) The use of any other factors (see subsection (2)(H) of this rule) requires the express, prior written approval of the director; and

(J) Any consent to rate adjustment shall be subject to section 383.035.7, RSMo Supp. 2006 and shall meet the following requirements:

1. Consent to rate adjustments shall only result in premiums that exceed those that otherwise apply;

2. No insurer shall effect a policy of insurance or a renewal at a rate varying from the rate properly filed for its use on that specific risk unless a form provided by the director, or in such form as approved by the director, is completed by the insured and retained by the insurer for not less than five (5) years after the policy expires; and

3. An insurer shall not use consent to rate adjustments in such a way as to avoid rate standards or rate filing requirements.

(6) No insurer shall use rates and supplementary rate information not filed in compliance with this rule. If the director determines that an insurer's rate filing does not comply with the form and manner of this rule then the director shall notify the insurer within thirty (30) days that the filing has not been accepted by the director as meeting the requirements of section 383.203, RSMo Supp. 2006. The absence of such notification by the director shall not mean that the rates and supplementary rate information provided in the filing meet the requirements of this rule or other rules in this chapter that go beyond the form and manner of the filing of rates and supplementary rate information.

(7) Public Records.

(A) All rates and supplementary rate information shall, as soon as filed, be open to public inspection at any reasonable time.

(B) Copies may be obtained by any person on request and upon payment of a reasonable charge.

(C) Information filed pursuant to this rule other than rates and supplementary rate information may be treated as confidential if filed pursuant to the procedure set forth in 20 CSR 10-2.400(8).

(D) The insurer shall file the original and one (1) copy of all rates, supplementary information and other information filed pursuant to this rule.

AUTHORITY: section 383.206.6, RSMo Supp. 2006. Emergency rule filed Feb. 1, 2007, effective Feb. 13, 2007, expires Aug. 10, 2007. A proposed rule covering this same material is published in this issue of the ***Missouri Register****.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 500—Property and Casualty
Chapter 5—Professional Malpractice

EMERGENCY RULE

20 CSR 500-5.025 Determination of Inadequate Rates

PURPOSE: This rule effectuates the provisions of section 383.206, RSMo Supp. 2006, regarding determinations of whether a base rate for medical malpractice insurance is inadequate.

EMERGENCY STATEMENT: This emergency rule outlines medical malpractice insurance rate filing requirements. This emergency rule is necessary to preserve the public welfare of Missouri citizens by ensuring that medical malpractice insurance rates are not inadequate. Between August 2006 and February 1, 2007, representatives for the Department of Insurance, Financial Institutions and Professional Registration met with many industry and consumer representatives to determine how to best implement House Bill No. 1837, Laws 2006 in order to avoid industry insolvency. House Bill No. 1837 has been in effect since August 28, 2006, but is unenforceable by the department without promulgated rules. Based on industry input it is critical that the department now promptly put implementing rules in effect to regulate rates and avoid insolvency due to unregulated rates. As a result, the Missouri Department of Insurance, Financial Institutions and Professional Registration finds an immediate danger to the public welfare and a compelling governmental interest, which requires emergency action. The scope of this emergency rule is limited to the conditions creating the emergency and complies with the protections extended in the ***Missouri*** *and* ***United States Constitutions****. In developing this emergency rule, representatives of the insurance industry were consulted. The department believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency rule was filed on February 1, 2007, effective February 13, 2007, expires August 10, 2007.*

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

(1) The provisions of this rule apply only to the determination of whether a rate charged for medical malpractice insurance is inadequate and, if so, what actions are required by the insurer.

(2) The director may determine that a rate is inadequate based on any subcategory or subspecialty of the health care industry that the director determines to be reasonable.

(3) No rate shall be held to be inadequate unless the director determines such rate is unreasonably low for the insurance provided with respect to the classification to which such rate is applicable. In making this determination, premium shall not include any amounts in excess of an insurer's filed rate resulting from the consent to rate provisions of section 383.035(8), RSMo Supp. 2006. A rate is unreasonably low if premium, along with expected investment income resulting from premiums, is insufficient:

(A) With respect to an insurer organized pursuant to the provisions of Chapter 383, RSMo and originally authorized to transact business less than two (2) years prior to the effective date of the rate, to fund expected losses, loss adjustment expenses, and administrative expenses; and

(B) With respect to any other insurer, to fund expected losses, loss adjustment expenses, administrative expenses and a provision for contingencies.

(4) In all other cases, if an insurer's required policyholders' surplus is:

(A) Less than or equal to the insurer's modified surplus, then the insurer's rates that include no provision for contingencies will not be determined to be inadequate; and

(B) Greater than the insurer's modified surplus, then the insurer's base rates will be determined to be inadequate unless:

1. The rates include a provision for contingencies (referred to as a "contingency charge") in an amount determined by the following steps, which shall be shown on a form provided by or approved by the director:

A. First, determine the difference between the insurer's required policyholders' surplus and the insurer's modified surplus, which difference is also referred to as the insurer's deficit;

B. Next, divide the insurers' deficit by the years of earned premium subject to assessment, the quotient of which division is also referred to as the insurer's deficit surcharge;

C. Finally, divide the insurer's deficit surcharge by three (3), the quotient of which division is also referred to as the insurer's contingency charge; and

D. The Contingency Form, which has been incorporated by reference, is published by the Missouri Department of Insurance, Financial Institutions and Professional Registration, PO Box 690, Jefferson City, MO 65102. This form does not include any amendments or additions. This form is available at the department's office in Jefferson City, Missouri, on the department website, http://www.insurance.mo.gov/industry/forms/index.htm, or by mailing a written request to the Missouri Department of Insurance, Financial Institutions and Professional Registration, PO Box 690, Jefferson City, MO 65102; and

2. The insurer's rates:

A. Shall be increased by the amount of the contingency charge; and

B. May not be removed or deleted by any rate credit or dividend provision.

AUTHORITY: section 383.206.6, RSMo Supp. 2006. Emergency rule filed Feb. 1, 2007, effective Feb. 13, 2007, expires Aug. 10, 2007. A proposed rule covering this same material is published in this issue of the ***Missouri Register****.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 500—Property and Casualty
Chapter 5—Professional Malpractice

EMERGENCY RULE

20 CSR 500-5.026 Determination of Excessive Rates

PURPOSE: This rule effectuates the provisions of section 383.206, RSMo Supp. 2006, regarding determinations of whether a base rate for medical malpractice insurance is excessive.

EMERGENCY STATEMENT: This emergency rule outlines medical malpractice insurance rate filing requirements. This emergency rule is necessary to preserve the public welfare of Missouri citizens by ensuring that medical malpractice insurance rates are not excessive. Between August 2006 and February 1, 2007, representatives for the Department of Insurance, Financial Institutions and Professional Registration met with many industry and consumer representatives to determine how to best implement House Bill No. 1837, Laws 2006 in order to avoid industry insolvency. House Bill No. 1837 has been in effect since August 28, 2006, but is unenforceable by the department without promulgated rules. Based on industry input it is critical that the department now promptly put implementing rules in effect to regulate rates and avoid insolvency due to unregulated rates. As a result, the Missouri Department of Insurance, Financial Institutions and Professional Registration finds an immediate danger to the public welfare and a compelling governmental interest, which requires emergency action. The scope of this emergency rule is limited to the conditions creating the emergency and complies with the protections extended in the ***Missouri*** *and* ***United States Constitutions****. In developing this emergency rule, representatives of the insurance industry were consulted. The department believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency rule was filed on February 1, 2007 effective February 13, 2007, expires August 10, 2007.*

(1) The provisions of this rule apply only to the determination of whether a rate charged for medical malpractice insurance is excessive and, if so, what actions are required by the insurer.

(2) The director may determine that a rate is excessive based on any subcategory or subspecialty of the health care industry that the director determines to be reasonable.

(3) No rate shall be held to be excessive unless such rate is unreasonably high for the insurance provided with respect to the classification to which such rate is applicable. A rate is unreasonably high if premium, along with expected investment income resulting from premiums, is reasonably expected to produce a return on investment for the owners or shareholders that exceeds other similar investments. The return on investment for the owners or shareholders is the amount by which premium, along with expected investment income resulting from premiums, is reasonably expected to exceed expected losses, loss adjustment expenses and administrative expenses. In making this determination premium shall not include any amounts in excess of an insurer's filed rate resulting from the consent to rate provisions of section 383.035.7, RSMo Supp. 2006.

(4) The insurer's rate filing shall provide adequate support to demonstrate that the return on investment for the owners or shareholders will not exceed the return of other similar investments. The insurer shall not use its losses in other states or losses in other activities to offset or reduce its return on investment in Missouri.

AUTHORITY: section 383.206.6, RSMo Supp. 2006. Emergency rule filed Feb. 1, 2007, effective Feb. 13, 2007, expires Aug. 10, 2007. A proposed rule covering this same material is published in this issue of the ***Missouri Register****.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 500—Property and Casualty
Chapter 5—Professional Malpractice

EMERGENCY RULE

20 CSR 500-5.027 Determination of Unfairly Discriminatory Rates

PURPOSE: This rule effectuates the provisions of section 383.206, RSMo Supp. 2006, regarding determinations of whether a base rate for medical malpractice insurance is unfairly discriminatory.

EMERGENCY STATEMENT: This emergency rule outlines medical malpractice insurance rate filing requirements. This emergency rule is necessary to preserve the public welfare of Missouri citizens by ensuring that medical malpractice insurance rates are not unfairly discriminatory. Between August 2006 and February 1, 2007, representatives for the Department of Insurance, Financial Institutions and Professional Registration met with many industry and consumer representatives to determine how to best implement House Bill No. 1837, Laws 2006 in order to avoid industry insolvency. House Bill No. 1837 has been in effect since August 28, 2006, but is unenforceable by the department without promulgated rules. Based on industry input it is critical that the department now promptly put implementing rules in effect to regulate rates and avoid insolvency due to unregulated rates. As a result, the Missouri Department of Insurance, Financial Institutions and Professional Registration finds an immediate danger to the public welfare and a compelling governmental interest, which requires emergency action. The scope of this emergency rule is limited to the conditions creating the emergency and complies with the protections extended in the ***Missouri*** *and* ***United States Constitutions****. In developing this emergency rule,*

representatives of the insurance industry were consulted. The department believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency rule was filed on February 1, 2007, effective February 13, 2007, expires August 10, 2007.

(1) The provisions of this rule apply only to the determination of whether a rate charged for medical malpractice insurance is unfairly discriminatory and, if so, what actions are required by the insurer.

(2) Rates are unfairly discriminatory if they fail to reasonably reflect material differences in expected losses and expenses between risks, and include the following:

(A) The application of unequal charges, consent to rate charges or credits or the use of unequal rates for risks having essentially the same hazards, expected losses and expenses; and

(B) The application of equal charges, consent to rate charges or credits or the use of equal rates for risks having measurably different hazards, expected losses or expenses.

(3) Risks may be grouped by classifications, by rating schedules or by any other reasonable methods, for the establishment of rates and minimum premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both. Such standards may measure any differences among risks that can be demonstrated to have a probable effect upon losses or expenses.

(4) The insurer's rate filing shall provide adequate support to demonstrate that insurer's rates and rating plan are not unfairly discriminatory.

(5) If a rate or rating plan discriminates on the basis of race, religion, creed, or national origin, such rate or rating plan is unfairly discriminatory.

AUTHORITY: section 383.206.6, RSMo Supp. 2006. Emergency rule filed Feb. 1, 2007, effective Feb. 13, 2007, expires Aug. 10, 2007. A proposed rule covering this same material is published in this issue of the ***Missouri Register****.*

The Secretary of State shall publish all executive orders beginning January 1, 2003, pursuant to section 536.035.2, RSMo Supp. 2006.

EXECUTIVE ORDER
07-05

WHEREAS, the Missouri Department of Health and Senior Services is authorized pursuant to Chapter 192, RSMo; and

WHEREAS, the Missouri Department of Transportation is authorized pursuant to Article IV, Section 12, of the Missouri Constitution and Chapter 226, RSMo; and

WHEREAS, Chapters 306 and 577, RSMo, require the Missouri Department of Health and Senior Services to license and regulate the chemical analysis used in determining the alcohol or drug content of motor vehicle and watercraft operators; and

WHEREAS, the Breath Alcohol Program is responsible for performing on-site inspection of breath analyzers, as well as, approving permits to operate and maintain evidential breath analyzers; permits to analyze blood, urine and saliva for drugs; and courses to instruct permit holders in the use of breath analyzer equipment; and

WHEREAS, the Breath Alcohol Program was established to ensure alcohol and drug testing is conducted in a uniform way throughout the state; and

WHEREAS, the Missouri Department of Transportation, Division of Highway Safety, currently supports the two major facilities involved in training and equipping law enforcement on issues related to breath alcohol testing; and

WHEREAS, the work of the Breath Alcohol Program would be strengthened by a move to the Missouri Department of Transportation, where other state initiatives promoting highway safety are located; and

WHEREAS, the Missouri State Government Review Commission recommended this transfer in its November 2005 Report; and

WHEREAS, the transfer of the Breath Alcohol Program would better serve Missouri's citizens by increasing efficiencies and is a component of the Governor's Executive Branch Reorganization Plan of 2007; and

WHEREAS, I am committed to integrating executive branch operations to ensure that the state delivers quality services in the most accessible manner and at the lowest cost to taxpayers.

NOW, THEREFORE, I, MATT BLUNT, GOVERNOR OF THE STATE OF MISSOURI, by virtue of the authority vested in me by the Constitution and the laws of the State of Missouri, including the Omnibus State Reorganization Act of 1974, do hereby order the Missouri Department of Health and Senior Services and the Missouri Department of Transportation to cooperate to:

1. Transfer all the authority, powers, duties, functions, records, personnel, property, contracts, budgets, matters pending, and other pertinent vestiges of the Breath Alcohol Program from the Missouri Department of Health and Senior Services to the Missouri Department of Transportation, by Type I transfer, as defined under the Reorganization Act of 1974; and

2. Develop mechanisms and processes necessary to effectively transfer the Breath Alcohol Program to the Missouri Department of Transportation; and

3. Transfer the responsibility for staff support for the Breath Alcohol Program from the Missouri Department of Health and Senior Services to the Missouri Department of Transportation; and

4. Take the steps necessary to maintain compliance with federal requirements, so as not to jeopardize federal financial participation with this consolidation.

This Order shall become effective no sooner than August 28, 2007, unless disapproved within sixty days of its submission to the First Regular Session of the 94th General Assembly.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson on this 30th day of January, 2007.

Matt Blunt
Governor

ATTEST:

Robin Carnahan
Secretary of State

EXECUTIVE ORDER
07-06

WHEREAS, the Missouri Department of Insurance, Financial Institutions and Professional Registration is authorized pursuant to Article IV, Section 12, of the Missouri Constitution and Chapter 374, RSMo; and

WHEREAS, the Missouri Department of Revenue is authorized pursuant to Article IV, Section 12, of the Missouri Constitution and Chapter 32, RSMo; and

WHEREAS, the collection of surplus lines insurance taxes is established in Chapter 384, RSMo, and currently is assigned to the Missouri Department of Insurance, Financial Institutions and Professional Registration; and

WHEREAS, the surplus lines insurance market provides unusual or high-risk insurance unavailable from licensed insurers; and

WHEREAS, surplus lines insurance companies doing business in Missouri pay premium taxes to the Missouri Department of Insurance, Financial Institutions and Professional Registration; and

WHEREAS, administering the premium and surplus lines tax systems is a function of the Missouri Department of Insurance, Financial Institutions and Professional Registration; and

WHEREAS, the Missouri Department of Insurance, Financial Institutions and Professional Registration currently transmits the surplus lines tax remittances received from insurance companies directly to the Missouri Department of Revenue; and

WHEREAS, the Missouri Department of Revenue is already collecting premium taxes remitted by insurance companies; and

WHEREAS, the Missouri Department of Revenue is the state's tax collection agency; and

WHEREAS, the collection of surplus lines insurance taxes would be strengthened by a move to the Missouri Department of Revenue where other state taxes are collected; and

WHEREAS, the Missouri State Government Review Commission recommended this transfer in its November 2005 Report; and

WHEREAS, the transfer of the collection of surplus lines insurance tax function would better serve Missouri's citizens by increasing efficiencies and is a component of the Governor's Executive Branch Reorganization Plan of 2007; and

WHEREAS, I am committed to integrating executive branch operations to ensure that the state delivers quality services in the most accessible manner and at the lowest cost to taxpayers.

NOW, THEREFORE, I, MATT BLUNT, GOVERNOR OF THE STATE OF MISSOURI, by virtue of the authority vested in me by the Constitution and the laws of the State of Missouri, including the Omnibus State Reorganization Act of 1974, do hereby order the Missouri Department of Insurance, Financial Institutions and Professional Registration and the Missouri Department of Revenue to cooperate to:

1. Transfer all the authority, powers, duties, functions, records, personnel, property, contracts, budgets, matters pending, and other pertinent vestiges of the function of collecting surplus lines taxes from the Missouri Department of Insurance, Financial Institutions and Professional Registration to the Missouri Department of Revenue, by Type I transfer, as defined under the Reorganization Act of 1974; and

2. Develop mechanisms and processes necessary to effectively transfer the function of collecting surplus lines taxes to the Missouri Department of Revenue; and

3. Transfer the responsibility for staff support for the function of collecting surplus lines taxes from the Missouri Department of Insurance, Financial Institutions and Professional Registration to the Missouri Department of Revenue.

This Order shall become effective no sooner than August 28, 2007, unless disapproved within sixty days of its submission to the First Regular Session of the 94th General Assembly.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson on this 30th day of January, 2007.

Matt Blunt
Governor

ATTEST:

Robin Carnahan
Secretary of State

EXECUTIVE ORDER
07-07

WHEREAS, the Missouri Department of Labor and Industrial Relations is authorized pursuant to Article IV, Section 12, of the Missouri Constitution and Chapter 286, RSMo; and

WHEREAS, the Missouri Department of Public Safety is authorized pursuant to Article IV, Section 12, of the Missouri Constitution and Chapter 650, RSMo; and

WHEREAS, the Crime Victims' Compensation Fund is established in Section 595.045, RSMo, and is currently administered by the Missouri Department of Labor and Industrial Relations, Division of Workers' Compensation; and

WHEREAS, the Crime Victims' Compensation Fund was established in 1981 to assist victims of violent crimes through a period of financial hardship; and

WHEREAS, the Crime Victims' Compensation Fund is supported by a surcharge assessed in criminal court proceedings filed in Missouri courts; and

WHEREAS, the Office for Victims of Crime was established in the Missouri Department of Public Safety in 2001 to coordinate and promote the state's programs for victims of crime, coordinate efforts with stateside coalitions involved in providing assistance to victims of crime, administer the statewide victim notification system, and serve as a clearinghouse for victim complaints; and

WHEREAS, the work of the Crime Victims' Compensation program would be strengthened by a move to the Missouri Department of Public Safety where other statewide programs providing services to crime victims are located; and

WHEREAS, the Missouri State Government Review Commission recommended this transfer in its November 2005 Report; and

WHEREAS, the transfer of the Crime Victims' Compensation Fund would better serve Missouri's citizens by increasing efficiencies and is a component of the Governor's Executive Branch Reorganization Plan of 2007; and

WHEREAS, I am committed to integrating executive branch operations to ensure that the state delivers quality services in the most accessible manner and at the lowest cost to taxpayers.

NOW, THEREFORE, I, MATT BLUNT, GOVERNOR OF THE STATE OF MISSOURI, by virtue of the authority vested in me by the Constitution and the laws of the State of Missouri, including the Omnibus State Reorganization Act of 1974, do hereby order the Missouri Department of Labor and Industrial Relations and the Missouri Department of Puhlic Safety to cooperate to:

1. Transfer all the authority, powers, duties, functions, records, personnel, property, contracts, budgets, matters pending, and other pertinent vestiges of the Crime Victims' Compensation Fund from the Missouri Department of Labor and Industrial Relations to the Missouri Department of Public Safety by Type I transfer, as defined under the Reorganization Act of 1974; and

2. Develop mechanisms and processes necessary to effectively transfer the Crime Victims' Compensation Fund to the Missouri Department of Public Safety; and

3. Transfer the responsibility for staff support for the Crime Victims' Compensation Fund from the Missouri Department of Labor and Industrial Relations to the Missouri Department of Public Safety.

This Order shall become effective no sooner than August 28, 2007, unless disapproved within sixty days of its submission to the First Regular Session of the 94th General Assembly.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson on this 30th day of January, 2007.

Matt Blunt
Governor

ATTEST:

Robin Carnahan
Secretary of State

Under this heading will appear the text of proposed rules and changes. The notice of proposed rulemaking is required to contain an explanation of any new rule or any change in an existing rule and the reasons therefor. This is set out in the Purpose section with each rule. Also required is a citation to the legal authority to make rules. This appears following the text of the rule, after the word "Authority."

Entirely new rules are printed without any special symbology under the heading of the proposed rule. If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission. Rules which are proposed to be amended will have new matter printed in boldface type and matter to be deleted placed in brackets.

An important function of the *Missouri Register* is to solicit and encourage public participation in the rulemaking process. The law provides that for every proposed rule, amendment or rescission there must be a notice that anyone may comment on the proposed action. This comment may take different forms.

If an agency is required by statute to hold a public hearing before making any new rules, then a Notice of Public Hearing will appear following the text of the rule. Hearing dates must be at least thirty (30) days after publication of the notice in the *Missouri Register.* If no hearing is planned or required, the agency must give a Notice to Submit Comments. This allows anyone to file statements in support of or in opposition to the proposed action with the agency within a specified time, no less than thirty (30) days after publication of the notice in the *Missouri Register*.

An agency may hold a public hearing on a rule even though not required by law to hold one. If an agency allows comments to be received following the hearing date, the close of comments date will be used as the beginning day in the ninety (90)-day-count necessary for the filing of the order of rulemaking.

If an agency decides to hold a public hearing after planning not to, it must withdraw the earlier notice and file a new notice of proposed rulemaking and schedule a hearing for a date not less than thirty (30) days from the date of publication of the new notice.

Proposed Amendment Text Reminder:
Boldface text indicates new matter.
[Bracketed text indicates matter being deleted.]

Title 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION
Division 50—Division of School Improvement
Chapter 500—Virtual Schools

PROPOSED RULE

5 CSR 50-500.010 Virtual Instruction Program

PURPOSE: This rule establishes policies and procedures for the Missouri Department of Elementary and Secondary Education to implement a public virtual school program to serve school-age students residing in the state, as authorized by section 161.670, RSMo.

(1) General Information. Missouri's Virtual Instruction Program (MoVIP) offers free online courses to any kindergarten through grade twelve (K–12) students residing in Missouri, subject to appropriations. All MoVIP teachers are Missouri certified in the subjects they teach. All courses offered through MoVIP are aligned with Missouri's Show-Me Standards and grade-level expectations. The program is intended to give students and families greater access to courses. It also is intended to give school districts more flexibility in scheduling, offering courses, and providing accelerated learning options for students.

(2) Access. A school district shall not limit a student's access to MoVIP courses, even if the district offers the same course titles. School officials are encouraged to advise students who are considering MoVIP courses about whether those courses are appropriate, based on academic prerequisites and each student's age and academic readiness.

(A) State appropriations will pay for no more than six (6) virtual credits per school year for any one (1) student. A credit consists of two (2) semesters of work for a school year.

(B) A school district cannot limit the number of credits a student may earn through MoVIP during a single or multiple school years.

(C) Students may be allowed to take MoVIP courses during the regular school day as allowed by local district policies.

(3) Selection. In any fiscal year, the number of students seeking to enroll in courses through MoVIP may exceed the level of state funding appropriated to support the program. The Department of Elementary and Secondary Education (DESE) will use a selection process to assure that students in all parts of the state have an equal opportunity to participate in the MoVIP program.

(4) Credit. Course credit issued through the MoVIP program shall be recognized by all public school districts in Missouri, regardless of who paid for the MoVIP course (state reimbursement or private tuition).

(A) All courses offered by MoVIP must use course numbers established by DESE.

(B) MoVIP will officially notify school districts and parents about the completion of each course and about any change in a student's status (moving, dropping a course, etc.). When a course is completed, the notification will be in the form of a percentage of work satisfactorily completed, as opposed to a letter grade.

(C) School district policies governing how grades and credits are awarded must be applied to MoVIP courses and credits the same way they are applied to courses offered by the school district. Once a grade has been assigned for a course credit that was taken through the MoVIP program that credit shall be treated the same as any other course offered by the district.

(5) Funding. Districts that have resident students enrolled in MoVIP classes will receive a disbursement corresponding to fifteen percent (15%) of the total state aid attributable to such students under sections 163.031 and 163.043, RSMo.

AUTHORITY: sections 161.092 and 161.670, RSMo Supp. 2006. Original rule filed Jan. 23, 2007.

PUBLIC COST: This proposed rule is estimated to cost the Department of Elementary and Secondary Education $2,715,567 for Fiscal Year 2008 and $4,017,939 for Fiscal Year 2009, with the cost recurring annually for the life of the rule based upon yearly appropriations from the General Assembly.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri

Department of Elementary and Secondary Education, ATTN: Curt Fuchs, Director, Virtual School, Division of School Improvement, PO Box 480, Jefferson City, MO 65102-0480. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

FISCAL NOTE
PUBLIC COST

I. RULE NUMBER

Rule Number and Name:	5 CSR 50-500.010 Virtual Instruction Program
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Elementary and Secondary Education	$2,715,567 amount for Fiscal Year 2008 and $4,017,939 for Fiscal Year 2009, with this cost recurring based upon yearly appropriations from the General Assembly.

III. WORKSHEET

Program estimates are based upon a cost of $5,200 per student FTE and an appropriation limit of 500 FTE in Fiscal Year 2008 and 750 FTE in Fiscal Year 2009. Administrative estimates are based upon 2 FTE assigned to the Department of Elementary and Secondary Education.

Expenses – FY 2007		**Expenses – FY 2008**		**Expenses – FY 2009**	
Personnel	$56,646	Personnel	$ 70,905	Personnel	$ 72,677
Benefits	$25,399	Benefits	$ 31,241	Benefits	$ 32,021
Equipment & Expense	$13,421	Equipment & Expense	$ 13,421	Equipment & Expense	$ 13,241
		Course Costs	$2,600,000	Course Costs	$3,900,000
TOTAL	**$95,466**	**TOTAL**	**$2,715,567**	**TOTAL**	**$4,017,939**

IV. ASSUMPTIONS

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 51—Broker-Dealers, Agents, Investment Advisers, and Investment Adviser Representatives

PROPOSED AMENDMENT

15 CSR 30-51.180 Exemptions from Registration for Broker-Dealers, Agents, Investment Advisers, and Investment Adviser Representatives. The division is adding a new section (6).

PURPOSE: This amendment provides certain advisers to pooled investment vehicles in the state of Missouri an exemption from the registration requirements of the Missouri Securities Act of 2003.

(6) Exemption from Investment Adviser Registration for Certain Investment Advisers.

(A) An investment adviser is exempt from the registration requirements of section 409.4-403 provided the following conditions are met:

1. The investment adviser is exempt from registration under section 203(b)(3) of the Investment Advisers Act of 1940 (15 U.S.C. section 80b-3(b)(3)); and

2. The investment adviser engages in the business of providing investment advice to fifteen (15) or fewer clients.

(B) Definitions. For the purposes of this section:

1. "Assets under management" includes amounts currently under management and any amount payable to such entity pursuant to a firm agreement or similar binding commitment pursuant to which a person has agreed to acquire an interest in, or make capital contributions to, the entity upon demand of such entity;

2. The term "client" means an entity that:

A. Would be an investment company under section 3(a) of the Investment Company Act of 1940 (15 U.S.C. section 80a-3(a)) but for the exception provided by sections 3(c)(1) or 3(c)(7) of that Act;

B. Only has owners that qualified at the time that they invested as either:

(I) An "accredited investor" as defined at 17 CFR section 230.501(a); or

(II) A qualified client as that term is defined at 17 CFR section 275.205-3(d)(1)(iii); and

C. Immediately after entering into the contract with the investment adviser has at least five (5) million dollars (valued at historical cost) in assets under management with the investment adviser.

*AUTHORITY: sections 409.4-401(d) 409.4-402(b)(9), 409.4-403(b)(3), 409.4-404(b)(2), and 409.6-605, RSMo Supp. [2003] **2006**. Original rule filed Dec. 28, 2001, effective July 30, 2002. For intervening history, please consult the **Code of State Regulations**. Emergency amendment filed Feb. 2, 2007, effective Feb. 12, 2007, to be terminated March 5, 2007. Emergency amendment filed Feb. 23, 2007, effective March 5, 2007, expires Aug. 10, 2007. Amended: Filed: Feb. 2, 2007.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Secretary of State's Office, Matt Kitzi, Commissioner of Securities, 600 West Main Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of *[Health Standards]* ***Regulation*** and Licensure
Chapter 80—Family Care Safety Registry

PROPOSED AMENDMENT

19 CSR 30-80.030 Child-Care and Elder-Care Worker Registration. The department is amending section (1).

PURPOSE: This amendment provides that the fee for registering with the Family Care Safety Registry will be equal to the charge to the department by the Department of Public Safety, Missouri State Highway Patrol, for obtaining criminal history record information for that applicant.

(1) Application for Registration.

(A) The application for registration in the Family Care Safety Registry shall include the following:

1. A completed Child-Care and Elder-Care Worker Registration Form, provided by the department, shall be typewritten or printed in ink. The application shall include the following:

A. Applicant's valid Social Security number;

B. Information on applicant's right to appeal the information contained in the registry pursuant to section 210.912, RSMo;

C. Signed consent of the applicant for the background checks pursuant to section 210.906, RSMo;

D. Signed consent of the applicant for the release of information contained in the background check for employment purposes only;

E. Worker category;

F. Applicant's last name, first name, middle name;

G. Prior names used by applicant;

H. Applicant's home address;

I. Applicant's current mailing address, if different than home address;

J. Applicant's county of residence;

K. Applicant's date of birth;

L. Applicant's gender;

M. Name, address and county of applicant's current employer (if applicable); and

N. Signature of the applicant and date of signature, in ink, which certifies that all information in the registration form is complete and true to the best of the applicant's knowledge;

2. A photocopy of applicant's Social Security card; and

3. A check**,** *[or]* money order**, or electronic payment** for *[the]* **a** nonrefundable fee *[of five dollars ($5)]* made payable to the Missouri Department of Health **and Senior Services in an amount equal to that charged by the Missouri Department of Public Safety pursuant to Chapter 43, *Revised Statutes of Missouri*, and Title 11 *Code of State Regulations*, Chapter 30 for disseminating criminal history record information to non-criminal justice agencies which is currently set forth in section 43.530, RSMo, and 11 CSR 30-4.070.**

*AUTHORITY: sections 210.906, **RSMo Supp. 2006** and 210.924, RSMo 2000. Emergency rule filed Sept. 19, 2000, effective Jan. 1, 2001, expired June 29, 2001. Original rule filed March 30, 2001, effective Sept. 30, 2001. Amended: Filed Jan. 22, 2007.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with David S. Durbin, Director, Division of Regulation and Licensure, PO Box 570, Jefferson City, MO 65102-0570. Telephone (573) 522-8535. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 500—Property and Casualty
Chapter 5—Professional Malpractice

PROPOSED RULE

20 CSR 500-5.020 Medical Malpractice Insurance Rate Filings

PURPOSE: This rule effectuates the provisions of sections 383.203 and 383.206, RSMo Supp. 2006, regarding rates and supplementary rate information required to be filed before use.

(1) For purposes of the rules in this chapter:

(A) An insurer's surplus as regards policyholders (also referred to as policyholders' surplus) will be as shown by examination conducted by or on the order of the director. Where no examination has been conducted as of a certain date, an insurer's surplus as regards policyholders will be shown by the insurer's filed financial statement as of the December 31 next preceding such date, except as otherwise ordered by the director;

(B) An insurer's required policyholders' surplus is equal to:

1. In the case of an insurer who is subject to the provisions of sections 375.1250 to 375.1275, RSMo, the insurer's authorized control level risk-based capital; or

2. In the case of an insurer who is not subject to the provisions of sections 375.1250 to 375.1275, RSMo, the insurer's required minimum statutory capital and surplus, but not less than zero;

(C) An assessment is a special charge made in addition to the premium charged pursuant to the insurer's filed rate plan;

(D) An insurer's modified surplus is the sum of:

1. The insurer's policyholders' surplus as of the December 31 next preceding;

2. Assessments levied and collected by the insurer since such December 31; and

3. The insurer's policyholders' surplus paid in since such December 31;

(E) An insurer shall provide a summary of its Missouri experience on a form required to be filed by the director. Such experience shall be considered in the insurer's rates and shall:

1. In the case of an insurer organized pursuant to the provisions of Chapter 383, RSMo, be allocated totally to this state and totally to medical malpractice insurance premiums;

2. In the case of any other insurer:

A. Premium, losses, allocated loss adjustment expenses, commissions, and local taxes shall be Missouri experience;

B. Policyholder surplus and other acquisition expenses shall be allocated to this state in the same proportion as the insurer's medical malpractice gross direct premiums; and

C. Investment income shall be allocated to this state in the same proportion as the insurer's medical malpractice gross direct loss and allocated loss adjustment expense case basis reserves;

(F) A base rate is the cost of insurance per exposure unit prior to any application of individual risk variations based on loss or expense considerations;

(G) A classification is a grouping of insurance risks according to a classification system used by an insurer;

(H) A classification system is a schedule of classifications and a rule or set of rules used by an insurer for determining the classification applicable to an insured;

(I) A rate is the cost of insurance per exposure unit;

(J) A rating plan is a rule or set of rules used by an insurer to calculate premium for an insured, and the parameter values used in such calculation, after application of classification premium rates to units of exposure;

(K) A rating system is a collection of rating plans to be used by an insurer, rules for determining which rating plans are applicable to an insured, a classification system, and other rules used by an insurer for determining contractual consideration for insured;

(L) A schedule rating plan means any rating plan or system whereby a base rate is adjusted or modified based upon a schedule of debits and credits reflecting observable rating characteristics, not reflected in the base rate itself, expected to affect an individual insured's future loss exposure or expenses;

(M) Supplementary rate information means any manual, minimum premium, rating plan, rating schedule or plan of policy writing rules, rating rules, classification system, schedule rating system, territory codes and descriptions, rating plans and any other similar information needed to determine the applicable premium for an insured. Supplementary rating information includes factors and relativities, such as increased limits factors, classification relativities, deductible relativities or similar factors;

(N) Supporting actuarial data includes:

1. The experience and judgment of the insurer and the experience or data of other insurers or rating organizations relied upon by the insurer;

2. The interpretation of any statistical data relied upon by the insurer;

3. Descriptions of methods used in making the rates; and

4. Actuarial, technical or other services made available by a rating organization, or other similar information required to be filed by the director.

(2) Each insurer shall file its rates and supplementary rate information and shall provide the insurer's Missouri experience on a form provided by the director, or in such form as approved by the director. Except as otherwise ordered by the director, each filing of rates and supplementary rate information shall also include supporting actuarial data. The director may, based on her or his sole discretion, require an insurer to re-file its rates and supplementary rate information. Rates and supplementary rate information filed shall include the following information:

(A) Each base rate filed, including the description of which health care provider such base rate applies to;

(B) A complete description of any charge, credit, debit or discount to any base rate;

(C) The premium, loss and loss adjustment experience on which such rates are based, including:

1. Identifying Missouri premium resulting from the insurer's filed rates;

2. Identifying premium resulting from section 383.035.7, RSMo Supp. 2006 consent to rate surcharges in excess of the insurer's filed rates;

3. Identifying whether the loss and loss adjustment experience is Missouri experience and whether such experience is the insurance company's or the insurance industry's experience; and

4. Explaining how the experience was used in developing such rates;

(D) How the insurer's investment income and investment losses and administrative costs:

1. Were considered in developing such rates; and

2. Were allocated to the state of Missouri;

(E) The extent to which the locale in which a health care practice is occurring affects such rates;

(F) The extent to which inflation, including a description of the type of inflation, affects such rates;

(G) A description of any rate of return on investment for the owners or shareholders of the insurer, including a comparison of the rate of return on similar investments;

(H) A description of any other factors used in developing the rates; and

(I) A certification by an officer of the insurer that supporting actuarial data has been filed with the rates and supplementary rate information or has not been filed pursuant to order of the director.

(3) Rates shall not be:

(A) Inadequate as determined by 20 CSR 500-5.025 Determination of Inadequate Rates;

(B) Excessive as determined by 20 CSR 500-5.026 Determination of Excessive Rates; or

(C) Unfairly discriminatory as determined by 20 CSR 500-5.027 Determination of Unfairly Discriminatory Rates.

(4) Experience.

(A) All projections and rate-making factors shall be supported by the actual experience of the insurer where available and only to the extent not available to the actual experience of other medical malpractice insurers.

(B) All out-of-state experience used in support of the filing shall be based upon the allocation to this state as provided in subsection (1)(F) of the applicable entries.

(C) Projected losses and loss adjustment expenses shall be explained by the insurer and shall reflect sound actuarial judgment based upon the actual experience of the insurer as provided in section 383.203, RSMo Supp. 2006 and the rules in this chapter.

(5) Based on the information filed pursuant to section (2) of this rule and any other information and factors available to the director, the director shall review an insurer's rate filing and determine whether the rates, including the base rates, are excessive, inadequate or unfairly discriminatory. In addition, the director shall consider that:

(A) Schedule rating plans are subject to the standards of section 383.206.4, RSMo Supp. 2006. Schedule rating plans shall meet all the following requirements:

1. A schedule rating plan shall be actuarially supported. To be "actuarially supported" within the meaning of section 383.206.4, RSMo Supp. 2006, the rating criteria shall meet the following requirements, compliance with which requirements shall be demonstrated in the insurer's filed supplementary rate information, except that compliance with part (5)(A)1.B.(I) may be demonstrated in the insurer's supporting actuarial data:

A. The rating criteria must be objectively determined in that it is based on readily verifiable and measurable facts that cannot be easily manipulated; and

B. The rating criteria must either:

(I) Be supported by statistically credible historical experience; or

(II) Be limited:

(a) In the aggregate effect of all schedule rating charges, debits, credits and discounts to all policies in force to a maximum of not more than plus or minus five percent (±5%) during any one (1)-year period; and

(b) In the aggregate effect of all schedule rating debits and credits applied to any single policy to a maximum of plus or minus fifteen percent (±15%) during any one (1)-year period;

2. An insurer shall not use a schedule rating plan in such a way as to avoid rate standards or rate filing requirements;

3. All schedule rating debits and credits that an insurer applies to a policy shall be based on evidence that is maintained on file with the insurer and such evidence shall be retained for two (2) calendar years;

4. All insurers shall provide two (2) weeks prior notice to the policyholder of any change to the policyholder's premium due to a change in schedule rating debits or credits and the reasons therefore.

(B) Loss experience (see subsection (2)(C) of this rule) is subject to the provisions of section 383.206.2(4), RSMo Supp. 2006;

(C) Loss adjustment experience (see subsection (2)(C) of this rule) is subject to the provisions of section 383.206.2(9), RSMo Supp. 2006 provided that loss adjustment experience will be presumed unreasonable unless the loss adjustment experience complies with the same standards set forth in section 383.206.2(4), RSMo Supp. 2006 as apply to loss experience;

(D) Investment income and investment losses (see subsection (2)(D) of this rule) are subject to the provisions of section 383.206.2(5), RSMo Supp. 2006;

(E) Administrative costs (see subsection (2)(D) of this rule) are subject to the provisions of section 383.206.2(8), RSMo Supp. 2006;

(F) The locale in which a health care practice is occurring (see subsection (2)(E) of this rule) is subject to the provisions of section 383.206.2(6), RSMo Supp. 2006;

(G) Inflation (see subsection (2)(F) of this rule) is subject to the provisions of section 383.206.2(7), RSMo Supp. 2006;

(H) Rate of return (see subsection (2)(G) of this rule) is subject to the provisions of section 383.206.2(10), RSMo Supp. 2006;

(I) The use of any other factors (see subsection (2)(H) of this rule) requires the express, prior written approval of the director; and

(J) Any consent to rate adjustment shall be subject to section 383.035.7, RSMo Supp. 2006 and shall meet the following requirements:

1. Consent to rate adjustments shall only result in premiums that exceed those that otherwise apply;

2. No insurer shall effect a policy of insurance or a renewal at a rate varying from the rate properly filed for its use on that specific risk unless a form provided by the director, or in such form as approved by the director, is completed by the insured and retained by the insurer for not less than five (5) years after the policy expires; and

3. An insurer shall not use consent to rate adjustments in such a way as to avoid rate standards or rate filing requirements.

(6) No insurer shall use rates and supplementary rate information not filed in compliance with this rule. If the director determines that an insurer's rate filing does not comply with the form and manner of this rule then the director shall notify the insurer within thirty (30) days that the filing has not been accepted by the director as meeting the requirements of section 383.203, RSMo Supp. 2006. The absence of such notification by the director shall not mean that the rates and supplementary rate information provided in the filing meet the requirements of this rule or other rules in this chapter that go beyond the form and manner of the filing of rates and supplementary rate information.

(7) Public Records.

(A) All rates and supplementary rate information shall, as soon as filed, be open to public inspection at any reasonable time.

(B) Copies may be obtained by any person on request and upon payment of a reasonable charge.

(C) Information filed pursuant to this rule other than rates and supplementary rate information may be treated as confidential if filed pursuant to the procedure set forth in 20 CSR 10-2.400(8).

(D) The insurer shall file the original and one (1) copy of all rates, supplementary information and other information filed pursuant to this rule.

AUTHORITY: section 383.206.6, RSMo Supp. 2006. Emergency rule filed Feb. 1, 2007, effective Feb. 13, 2007, expires Aug. 10, 2007. Original rule filed Feb. 1, 2007.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions in excess of five hundred dollars ($500). See attached Public Cost Fiscal Note.

PRIVATE COST: This proposed rule will cost private entities one hundred fifty-six thousand, nine hundred twenty-three dollars ($156,923) initially and thirty-one thousand, three hundred eighty-five dollars ($31,385) on an annual basis. See attached Private Cost Fiscal Note.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed rule at 10:00 a.m. on April 2, 2007. The public hearing will be held at the Harry S Truman State Office Building, Room 530, 301 West High Street, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in support of or in opposition to the proposed rule, until 5:00 p.m. on April 2, 2007. Written statements shall be sent to Tamara A. Wallace, Department of Insurance, Financial Institutions and Professional Registration, PO Box 690, Jefferson City, MO 65102.

SPECIAL NEEDS: If you have any special needs addressed by the Americans with Disabilities Act, please notify us at (573) 751-6798 or (573) 751-2619 at least five (5) working days prior to the hearing.

FISCAL NOTE
PUBLIC COST

I. RULE NUMBER

Rule Number and Name:	20 CSR 500-5.020 Medical Malpractice Rate Filings
Type of Rulemaking	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of compliance in the Aggregate
Department of Insurance, Financial Institutions and Professional Registration	$123,563 annually for 1.5 FTEs
Department of Corrections	$0 to $100,000 annually

II. WORKSHEET

INSURANCE DEDICATED FUND	FY 2007 (10 Mo.)	FY 2008	FY 2009
Income - Department of Insurance			
Form filing fees	$4,450	$0	$0
Costs - Department of Insurance			
Personal service costs (1.5 FTE)	($65,979)	($81,154)	($83,183)
Fringe benefits	($29,070)	($35,756)	($36,650)
Equipment and expense	($32,964)	($3,614)	($3,722)
Total Cost - Department of Insurance	($128,013)	($120,524)	($123,555)
ESTIMATED NET EFFECT ON INSURANCE DEDICATED FUND	($123,563)	($120,524)	($123,555)

CONSUMER RESTITUTION FUND			
Income - Department of Insurance			
Enforcement proceeding/restitution funds	$0 - $100,000	$0 - $100,000	$0 - $100,000
ESTIMATED NET EFFECT ON CONSUMER RESTITUTION FUND	($123,563) – ($23,563)	($120,524) – ($20,524)	($123,555) – ($23,555)

IV. ASSUMPTIONS

The proposed rule contains no sunset clause. Any costs imposed by the proposed rule, may, therefore, be shown only on an annual basis.

In 2006, the General Assembly passed and the Governor signed into law House Bill 1837. The Department of Insurance, Financial Institutions, and Professional Registration (DIFP) estimated for the General Assembly that the DIFP would require one full time Insurance Product Analyst II and a half-time actuary beginning in FY2007. Additionally, a one-time computer contracting of $27,540 ($90/hr x 306 hours) will be necessary to implement the provisions of the bill. Requirements identified include: 1) Receipt of data electronically from insurers: actual rates for defined categories; base rate information; and premium, loss, exposure and other information, 2) an database to store the rates and other information electronically, along with functionality to process the data as described in the bill language, 3) adding security to the database, 4) make the data collected per this bill available to MO insurers through PDF files and on the DIFP website, and 5) various reporting requirements. The total estimated costs for the DIFP were $ $123,563.

Medical malpractice insurers will be required to re-file policy forms to conform with the cancellation provisions. There were approximately 89 insurers that have written premium for medical malpractice insurance in calendar year 2004. Insurers are required to submit a $50 filing fee when refiling policy forms. The DIFP estimates one-time revenues to the Insurance Dedicated Fund of $4,450 (89 insurers X $50 filing fee).

Officials from the Department of Corrections (DOC) stated the DOC cannot predict the number of new commitments which may result from the creation of the offense(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational cost either through incarceration (FY 05 average of $39.13 per inmate per day, or an annual cost of $14,282 per inmate) or through supervision provided by the Board of Probation and Parole (FY 03 average of $3.15 per offender per day, or an annual cost of $1,150 per offender). Supervision by the DOC through probation or incarceration would result in additional unknown costs to the DOC. Eight (8) persons would have to be incarcerated per fiscal year to exceed $100,000 annually. Due to the narrow scope of this new crime, it is assumed the impact would be less than $100,000 per year for the DOC.

FISCAL NOTE
PRIVATE COST

I. RULE NUMBER

Rule Number and Name:	20 CSR 500-5.020 Medical Malpractice Rate Filings
Type of Rulemaking	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classifications by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
34	Estimated number individual medical malpractice insurers or medical malpractice insurers that operate as a group that will likely be affected.	Initial Cost per Entity: $4,615 Initial Industry Cost: $156,923 Ongoing Cost per year per entity: $923 Ongoing Cost per year Industry Total: $31,385

II. WORKSHEET

IV. ASSUMPTIONS

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 500—Property and Casualty
Chapter 5—Professional Malpractice

PROPOSED RULE

20 CSR 500-5.025 Determination of Inadequate Rates

PURPOSE: This rule effectuates the provisions of section 383.206, RSMo Supp. 2006, regarding determinations of whether a base rate for medical malpractice insurance is inadequate.

(1) The provisions of this rule apply only to the determination of whether a rate charged for medical malpractice insurance is inadequate and, if so, what actions are required by the insurer.

(2) The director may determine that a rate is inadequate based on any subcategory or subspecialty of the health care industry that the director determines to be reasonable.

(3) No rate shall be held to be inadequate unless the director determines such rate is unreasonably low for the insurance provided with respect to the classification to which such rate is applicable. In making this determination, premium shall not include any amounts in excess of an insurer's filed rate resulting from the consent to rate provisions of section 383.035(8), RSMo Supp. 2006. A rate is unreasonably low if premium, along with expected investment income resulting from premiums, is insufficient:

(A) With respect to an insurer organized pursuant to the provisions of Chapter 383, RSMo and originally authorized to transact business less than two (2) years prior to the effective date of the rate, to fund expected losses, loss adjustment expenses, and administrative expenses; and

(B) With respect to any other insurer, to fund expected losses, loss adjustment expenses, administrative expenses and a provision for contingencies.

(4) In all other cases, if an insurer's required policyholders' surplus is:

(A) Less than or equal to the insurer's modified surplus, then the insurer's rates that include no provision for contingencies will not be determined to be inadequate; and

(B) Greater than the insurer's modified surplus, then the insurer's base rates will be determined to be inadequate unless:

1. The rates include a provision for contingencies (referred to as a "contingency charge") in an amount determined by the following steps, which shall be shown on a form provided by or approved by the director:

A. First, determine the difference between the insurer's required policyholders' surplus and the insurer's modified surplus, which difference is also referred to as the insurer's deficit;

B. Next, divide the insurers' deficit by the years of earned premium subject to assessment, the quotient of which division is also referred to as the insurer's deficit surcharge;

C. Finally, divide the insurer's deficit surcharge by three (3), the quotient of which division is also referred to as the insurer's contingency charge; and

D. The Contingency Form, which has been incorporated by reference, is published by the Missouri Department of Insurance, Financial Institutions and Professional Registration, PO Box 690, Jefferson City, MO 65102. This form does not include any amendments or additions. This form is available at the department's office in Jefferson City, Missouri, on the department website, http://www.insurance.mo.gov/industry/forms/index.htm, or by mailing a written request to the Missouri Department of Insurance, Financial Institutions and Professional Registration, PO Box 690, Jefferson City, MO 65102; and

2. The insurer's rates:

A. Shall be increased by the amount of the contingency charge; and

B. May not be removed or deleted by any rate credit or dividend provision.

AUTHORITY: section 383.206.6, RSMo Supp. 2006. Emergency rule filed Feb. 1, 2007, effective Feb. 13, 2007, expires Aug. 10, 2007. Original rule filed Feb. 1, 2007.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed rule at 10:00 a.m. on April 2, 2007. The public hearing will be held at the Harry S Truman State Office Building, Room 530, 301 West High Street, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in support of or in opposition to the proposed rule, until 5:00 p.m. on April 2, 2007. Written statements shall be sent to Tamara A. Wallace, Department of Insurance, Financial Institutions and Professional Registration, PO Box 690, Jefferson City, MO 65102.

SPECIAL NEEDS: If you have any special needs addressed by the Americans with Disabilities Act, please notify us at (573) 751-6798 or (573) 751-2619 at least five (5) working days prior to the hearing.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 500—Property and Casualty
Chapter 5—Professional Malpractice

PROPOSED RULE

20 CSR 500-5.026 Determination of Excessive Rates

PURPOSE: This rule effectuates the provisions of section 383.206, RSMo Supp. 2006, regarding determinations of whether a base rate for medical malpractice insurance is excessive.

(1) The provisions of this rule apply only to the determination of whether a rate charged for medical malpractice insurance is excessive and, if so, what actions are required by the insurer.

(2) The director may determine that a rate is excessive based on any subcategory or subspecialty of the health care industry that the director determines to be reasonable.

(3) No rate shall be held to be excessive unless such rate is unreasonably high for the insurance provided with respect to the classification to which such rate is applicable. A rate is unreasonably high if premium, along with expected investment income resulting from premiums, is reasonably expected to produce a return on investment for the owners or shareholders that exceeds other similar investments. The return on investment for the owners or shareholders is the amount by which premium, along with expected investment income resulting from premiums, is reasonably expected to exceed expected losses, loss adjustment expenses and administrative expenses. In

making this determination premium shall not include any amounts in excess of an insurer's filed rate resulting from the consent to rate provisions of section 383.035.7, RSMo Supp. 2006.

(4) The insurer's rate filing shall provide adequate support to demonstrate that the return on investment for the owners or shareholders will not exceed the return of other similar investments. The insurer shall not use its losses in other states or losses in other activities to offset or reduce its return on investment in Missouri.

AUTHORITY: section 383.206.6, RSMo Supp. 2006. Emergency rule filed Feb. 1, 2007, effective Feb. 13, 2007, expires Aug. 10, 2007. Original rule filed Feb. 1, 2007.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed rule at 10:00 a.m. on April 2, 2007. The public hearing will be held at the Harry S Truman State Office Building, Room 530, 301 West High Street, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in support of or in opposition to the proposed rule, until 5:00 p.m. on April 2, 2007. Written statements shall be sent to Tamara A. Wallace, Department of Insurance, Financial Institutions and Professional Registration, PO Box 690, Jefferson City, MO 65102.

SPECIAL NEEDS: If you have any special needs addressed by the Americans with Disabilities Act, please notify us at (573) 751-6798 or (573) 751-2619 at least five (5) working days prior to the hearing.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 500—Property and Casualty
Chapter 5—Professional Malpractice

PROPOSED RULE

20 CSR 500-5.027 Determination of Unfairly Discriminatory Rates

PURPOSE: This rule effectuates the provisions of section 383.206, RSMo Supp. 2006, regarding determinations of whether a base rate for medical malpractice insurance is unfairly discriminatory.

(1) The provisions of this rule apply only to the determination of whether a rate charged for medical malpractice insurance is unfairly discriminatory and, if so, what actions are required by the insurer.

(2) Rates are unfairly discriminatory if they fail to reasonably reflect material differences in expected losses and expenses between risks, and include the following:

(A) The application of unequal charges, consent to rate charges or credits or the use of unequal rates for risks having essentially the same hazards, expected losses and expenses; and

(B) The application of equal charges, consent to rate charges or credits or the use of equal rates for risks having measurably different hazards, expected losses or expenses.

(3) Risks may be grouped by classifications, by rating schedules or by any other reasonable methods, for the establishment of rates and minimum premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both. Such standards may measure any differences among risks that can be demonstrated to have a probable effect upon losses or expenses.

(4) The insurer's rate filing shall provide adequate support to demonstrate that insurer's rates and rating plan are not unfairly discriminatory.

(5) If a rate or rating plan discriminates on the basis of race, religion, creed, or national origin, such rate or rating plan is unfairly discriminatory.

AUTHORITY: section 383.206.6, RSMo Supp. 2006. Emergency rule filed Feb. 1, 2007, effective Feb. 13, 2007, expires Aug. 10, 2007. Original rule filed Feb. 1, 2007.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed rule at 10:00 a.m. on April 2, 2007. The public hearing will be held at the Harry S Truman State Office Building, Room 530, 301 West High Street, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in support of or in opposition to the proposed rule, until 5:00 p.m. on April 2, 2007. Written statements shall be sent to Tamara A. Wallace, Department of Insurance, Financial Institutions and Professional Registration, PO Box 690, Jefferson City, MO 65102.

SPECIAL NEEDS: If you have any special needs addressed by the Americans with Disabilities Act, please notify us at (573) 751-6798 or (573) 751-2619 at least five (5) working days prior to the hearing.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2120—State Board of Embalmers and Funeral Directors
Chapter 1—Organization and Description of Board

PROPOSED AMENDMENT

20 CSR 2120-1.010 General Organization. The board is proposing to amend sections (2), (4), (5), and (7), add new language in section (8) and renumber the remaining section.

PURPOSE: This amendment clarifies examination meetings and adds examination scheduling requirements.

(2) The board is a unit of the Division of Professional Registration *[in the Department of Economic Development]*.

(4) The board has at least two (2) regularly scheduled business meetings each year and such other meetings as determined by the board. *[The board has at least two (2) regularly scheduled examination meetings each year and such other examination meetings as determined by the board.]* The time and location for all

board meetings *[and examinations]* may be obtained by contacting the board office at PO Box 423, Jefferson City, MO 65102-0423.

(5) *[All board meetings will be governed by Roberts' Rules of Order.]* **The meetings of the board shall be conducted in accordance with *Robert's Rules of Order*, Newly Revised, 10th Edition, so far as it is compatible with the laws of Missouri governing this board or the board's own resolutions as to its conduct.**

(7) Members of the public may obtain information from the board, or make submissions to the board, by writing the board*['s executive director]* at PO Box 423, Jefferson City, MO 65102-0423 **or by visiting http://pr.mo.gov/embalmers.asp**.

(8) Examinations. After verification and approval by the board, application, scheduling, administration and payment for any examination required for licensure from the board shall be made to the board's testing service, currently the International Conference of Funeral Service Examining Boards, Inc. The testing service shall approve applications upon the board's verification and approval.

(A) Notification of intent to take an examination shall be received by the board at least fifteen (15) working days prior to the date the candidate plans to sit for the examination, unless otherwise stated in a specific regulation. At its discretion, the board may waive such notice requirement for examination candidates for good cause, provided that no waiver can be provided by the board that may violate the rules of the testing service. If a reexamination is required or requested, there is a mandatory thirty (30)-day waiting period between each Missouri reexamination date.

(B) All Missouri examinations may be provided in a computer-based testing format, except oral examination. Oral examinations will be held at the location designated by the board. Other examinations shall be held at the locations designated by the testing service. A complete listing of the conference's examination sites is at http://www.cfseb.org or is available at the board's office.

[(8)] **(9)** The rules in this division are declared severable. If any rule, or section of a rule, is held invalid by a court of competent jurisdiction or by the Administrative Hearing Commission, the remaining provisions shall remain in full force and effect unless otherwise determined by a court of competent jurisdiction or by the Administrative Hearing Commission.

*AUTHORITY: sections 333.111[,] **and** 333.151.1, **RSMo 2000** and 536.023.3, RSMo [2000] **Supp. 2006**. This rule originally filed as 4 CSR 120-1.010. Original rule filed Oct. 17, 1975, effective Oct. 28, 1975. For intervening history, please consult the **Code of State Regulations**. Amended: Filed Jan. 30, 2007.*

PUBLIC COST: This proposed amendment will reduce the State Board of Embalmers and Funeral Directors' Fund by approximately five thousand two hundred seventy-five dollars ($5,275) annually for the life of the rule. It is anticipated that the total savings will recur annually for the life of the rule, may vary with inflation and are expected to increase at the rate projected by the Legislative Oversight Committee.

PRIVATE COST: This proposed amendment will cost private entities an increase of approximately four thousand one hundred thirty dollars ($4,130) annually for the life of the rule. It is anticipated that the total cost will recur annually for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Embalmers and Funeral Directors, Becky Dunn, Executive Director, 3605 Missouri Boulevard, PO Box 423, Jefferson City, MO 65102, by facsimile at (573) 751-1155 or via email to embalm@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

PUBLIC ENTITY FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration

Division 2120 - State Board of Embalmers and Funeral Directors

Chapter 1 - Organization and Description of Board

Proposed Rule - 20 CSR 2120-1.010 General Organization

Prepared September 14, 2006 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Loss of Revenue
State Board of Embalmers and Funeral Directors	$5,275

Total Loss of Revenue Annually for the Life of the Rule	**$5,275**

III. WORKSHEET

Currently the board charges $25 for administration of examinations per candidate per testing day. Since the examination will no longer be administered by the board, the board will no longer collect the administration fee.

IV. ASSUMPTION

1. Based on FY06 actuals the board collected approximately $5,275 in administration fees in FY06. Therefore, the board is estimating an annual loss of revenue of approximately $5,275 for the life of the rule.

PRIVATE ENTITY FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration

Division 2120 - State Board of Embalmers and Funeral Directors

Chapter 1 - Organization and Description of Board

Proposed Rule - 20 CSR 2120-1.010 General Organization

Prepared September 14, 2006 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Estimate the number of entities by class which would likely be affected by the adoption of the proposed amendment:	Classification by type of the business entities which would likely be affected:	Estimated annual increase of compliance with the amendment by affected entities:
144	Applicants (MO Law Examination - $20 increase)	$2,880
50	Applicants (MO Arts Examination - $25 increase)	$1,250
	Estimated Annual Increase of Compliance for the Life of the Rule	**$4,130**

III. WORKSHEET

Currently the candidates for $25 for the administration of examinations and pay the International Conference of Funeral Service Examining Boards:

- $75 MO for the law examination and
- $100 for the Missouri Arts examination;

The computerized cost will be

- $120 for MO law computerized and
- 150 for MO Arts Computerized also paid to the International Conference of Funeral Service Examining Boards.

IV. ASSUMPTION

1. In FY 06 the Board administered 144 MO Law Examination and 59 MO Arts Examination.
2. The board anticipates licensees will experience reduction in potential expenses due various locations of the testing services and the likelihood that travel, meals and lodging will be significantly less. However, the board is not able to provide an estimate of the potential expenses due to the various locations of the applicant and the testing locations.
3. It is anticipated that the total costs will recur annually for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2120—State Board of Embalmers and Funeral Directors
Chapter 1—Organization and Description of Board

PROPOSED AMENDMENT

20 CSR 2120-1.040 Definitions. The board is proposing to amend sections (1), (2), and (8), delete section (9), renumber the remaining sections accordingly, amend section (19) and add a new section (21).

PURPOSE: This amendment will allow currently licensed Missouri funeral directors who have passed the Missouri Funeral Service Arts examination to qualify for an embalmer's license without unnecessary delay or additional retaking the Missouri Funeral Service Arts examination.

(1) Apprentice embalmer—an individual who is being trained as an embalmer under the immediate direction and personal supervision of a Missouri licensed embalmer for the "practice of embalming," the work of preserving, disinfecting and preparing by arterial embalming, or otherwise, of dead human bodies or the holding of oneself out as being engaged in such work and has met the requirements for registration pursuant to sections 333.041 and 333.042, RSMo and *[4 CSR 120-2.010]* **20 CSR 2120-2.010**.

(2) Apprentice funeral director—an individual who is being trained as a funeral director in a Missouri licensed funeral establishment under the supervision of a Missouri licensed funeral director in the "practice of funeral directing," the business of preparing, otherwise than by embalming, for the burial, disposal or transportation out of this state of, and the directing and supervising of the burial or disposal of, dead human bodies or engaging in the general control, supervision or management of the operations of a Missouri licensed funeral establishment and has met the requirements for registration pursuant to *[4 CSR 120-2.060]* **20 CSR 2120-2.060**.

(8) Embalmer examination—an examination consisting of the following:

(B) In lieu of the National Board Funeral Service Arts examination, successful completion of the Missouri Funeral Service Arts examination will be accepted, or the board may accept successful completion of an examination administered by another state, territory or province of the United States that is substantially equivalent or more stringent than the Missouri Funeral Service Arts examination;

[(B)] **(C)** National Board Funeral Service Science Section developed and furnished by the International Conference of Funeral Service Examining Boards, Inc., or designee of the board; and

[(C)] **(D)** Missouri Law Section.

[(9) Embalming log—a written record or log kept in the preparation/embalming room of a Missouri licensed funeral establishment available at all times in full view for a board inspector, which shall include the following:

(A) The name of deceased to be embalmed;

(B) The Missouri licensed funeral establishment location;

(C) The date and time the dead human body arrived at the funeral establishment;

(D) The date and time the embalming took place;

(E) The name and signature of the Missouri licensed embalmer;

(F) The Missouri licensed embalmer's license number; and

(G) The name of the Missouri licensed funeral establishment, or other that was in charge of making the arrangements if from a different location.]

[(10)] **(9)** Executive director—executive secretary of the board.

[(11)] **(10)** Function—the purpose for which a physical location may be used.

[(12)] **(11)** Funeral ceremony—a religious service or other rite or memorial ceremony for a decedent.

[(13)] **(12)** Funeral director—an individual holding a funeral director license issued by the State Board of Embalmers and Funeral Directors.

[(14)] **(13)** Funeral director examination—an examination consisting of the following:

(A) Missouri Law Examination; and

(B) Missouri Funeral Service Arts Examination developed and furnished by the International Conference of Funeral Service Examining Boards, Inc., or designee of the board; or

(C) National Board Funeral Service Arts Examination developed and furnished by the International Conference of Funeral Service Examining Boards, Inc., or designee of the board.

[(15)] **(14)** Funeral director-in-charge—an individual licensed as a funeral director by the State Board of Embalmers and Funeral Directors responsible for the general management and supervision of a Missouri licensed funeral establishment in the state of Missouri. Each Missouri licensed funeral establishment shall have a Missouri licensed funeral director designated as the funeral director-in-charge.

[(16)] **(15)** Funeral establishment—a building, place or premises licensed by the Missouri State Board of Embalmers and Funeral Directors devoted to or used in the care and preparation for burial, cremation or transportation of the human dead and includes every building, place or premises maintained for that purpose or held out to the public by advertising or otherwise to be used for that purpose.

[(17)] **(16)** Funeral service—any service performed in connection with the care of a dead human body from the time of death until final disposition including, but not limited to:

(A) Removal;

(B) Entering into contractual agreements for the provision of funeral services;

(C) Arranging, planning, conducting and/or supervising visitations and funeral ceremonies;

(D) Interment;

(E) Cremation;

(F) Disinterment;

(G) Burial; and

(H) Entombment.

[(18)] **(17)** Interment—burial in the ground or entombment of dead human remains.

[(19)] **(18)** Limited license—allows a person to work only in a funeral establishment which is licensed for only cremation including transportation of dead human bodies to and from the funeral establishment.

[(20)] **(19)** Preparation room—refers to the room in a Missouri licensed funeral establishment where dead human bodies are embalmed, bathed, and/or prepared for *[cremation]* **final disposition**.

[(21)] **(20)** Reciprocity examination—shall consist of the Missouri Law Examination.

(21) Register log—a written record or log kept in the preparation/embalming room of a Missouri licensed funeral establishment available at all times in full view for a board inspector, which shall include the following:

(A) The name of the deceased;

(B) The date and time the dead human body arrived at the funeral establishment;

(C) The date and time the embalming took place, if applicable;

(D) The name and signature of the Missouri licensed embalmer, if applicable;

(E) The name and signature of the Missouri registered apprentice embalmer, if any;

(F) The Missouri licensed embalmer's license number, if applicable;

(G) The Missouri apprentice embalmer registration number, if any; and

(H) The name of the licensed funeral establishment, or other that was in charge of making the arrangements if from a different location.

AUTHORITY: sections 333.011 and 333.111, RSMo 2000. This rule originally filed as 4 CSR 120-1.040. Original rule filed Dec. 31, 2003, effective July 30, 2004. Moved to 20 CSR 2120-1.040, effective Aug. 28, 2006. Amended: Filed Jan. 30, 2007.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed amendment will save private entities approximately one thousand dollars ($1,000) annually for the life of the rule. It is anticipated that the total savings will recur annually for the life of the rule, may vary with inflation and are expected to increase at the rate projected by the Legislative Oversight Committee.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Embalmers and Funeral Directors, Becky Dunn, Executive Director, 3605 Missouri Boulevard, PO Box 423, Jefferson City, MO 65102, by facsimile at (573) 751-1155 or via email to embalm@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

PRIVATE ENTITY FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration

Division 2120 - State Board of Embalmers and Funeral Directors

Chapter 1 - Organization and Description of Board

Proposed Rule - 20 CSR 2120-1.040 Definitions

Prepared September 14, 2006 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Estimate the number of entities by class which would likely be affected by the adoption of tbe proposed amendment:	Classification by type of the business entities which would likely be affected:	Estimated annual cost saving of compliance with the amendment by affected entities:
5	Applicants (National Arts Examination - $200)	$1,000
	Estimated Annual Cost Savings of Compliance for the Life of the Rule	**$1,000**

III. WORKSHEET

IV. ASSUMPTION

1. The board anticipates 5 currently licensed Missouri licensed funeral directors who have passed the Missouri Funeral Services Arts examination will experience a cost savings by qualifying for an embalmer's license without unnecessary delay or the increase additional costs of an additional potential travel, meals and lodging expenses. the board is not able to provide an estimate of the potential expenses due to the various locations of the applicant and the testing locations.
2. It is anticipated that the total savings will recur annually for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2120—State Board of Embalmers and Funeral Directors
Chapter 2—General Rules

PROPOSED AMENDMENT

20 CSR 2120-2.010 Embalmer's Registration and Apprenticeship. The board is amending sections (1), (3), (4), (7), (8), (10)–(16), (22), (24) and (25).

PURPOSE: This amendment will allow currently licensed Missouri funeral directors who have passed the Missouri Funeral Service Arts examination to qualify for an embalmer's license without unnecessary delay or additional retaking the Missouri Funeral Service Arts examination.

(1) Every person desiring to enter the profession of embalming dead human bodies within Missouri, and who is enrolled in an accredited institution of mortuary science, *[must]* **shall** complete a practicum as required by the accredited institution of mortuary science education.

(3) After registration with the board as a practicum student in an accredited institution of mortuary science education, the student may assist in a Missouri licensed funeral establishment preparation room only under the direct supervision of a Missouri licensed embalmer and may assist in the direction of funerals only under the direct supervision of a Missouri licensed funeral director. Each person desiring to be a practicum student shall register with the board as a practicum student on the form provided by the board in accordance with the requirements of the accredited institution of mortuary science prior to beginning the practicum. Applications *[must]* **shall** be accompanied by the applicable fee.

(4) During the period of the practicum, the certificate of registration issued to the practicum student shall be displayed**, at all times,** in a conspicuous location accessible to the public at each funeral establishment where the practicum student is working.

(7) After graduating from an accredited institution of mortuary science education, the applicant then *[must]* **shall** file, with the board, an official transcript of his/her embalming school grades showing s/he is a graduate of that school. In addition, the applicant shall ensure that his/her **official copy of the** national board examination results are provided to the board in writing by the International Conference of Funeral Service Examining Boards, Inc., or designee of the board.

(8) Effective *[June 1]* **July 30**, 2004 the Missouri State Board embalmers' examination shall consist of the National Board Funeral Service Arts section, the National Board Funeral Service Science section, and Missouri Law section. Application**,** *[and]* payment**, scheduling and administration** for the national board examinations will be made directly through the International Conference of Funeral Service Examining Boards, Inc., or **other** designee of the board. *[Application and administration fees for the Missouri Law section shall be made directly to the board. Scheduling and payment for the Missouri Law section will be made directly to the International Conference of Funeral Service Examining Boards, Inc., or designee of the board.]* An applicant shall be exempt from the requirement of successful completion of the Missouri Law section if the applicant has successfully completed the Missouri Law section for another license within twelve (12) months of the date that the board receives the new application. **In lieu of the National Board Funeral Service Arts examination, successful completion of the Missouri Funeral Service Arts examination results will be accepted, or the board may accept successful completion of an examination administered by another state, territory or province of the United States that is substantially equivalent or more stringent than the Missouri Funeral Service Arts examination.**

(10) An applicant *[must]* **shall** submit proof of having satisfied the requirements of the National Board Funeral Service Arts section and the National Board Funeral Service Science section of the examination by having his/her **official copy of the** scores from the International Conference of Funeral Service Examining Boards, Inc., or designee of the board transmitted to the board from the Conference. **In lieu of the National Board Funeral Service Arts examination, successful completion of the Missouri Funeral Service Arts examination will be accepted, or the board may accept successful completion of an examination administered by another state, territory or province of the United States that is substantially equivalent or more stringent than the Missouri Funeral Service Arts examination.**

(11) Those applicants achieving seventy-five percent (75%) on each of the three (3) sections of the embalming examination will be deemed to have passed the board's embalming examination. Any applicant who scores less than seventy-five percent (75%) on any section of the embalming examination may retake the failed section, upon application and payment of the administration and reexamination fees. On any reexamination of a single failed section, the applicant *[must]* **shall** score at least seventy-five percent (75%) to pass.

(12) After the applicant has made a passing grade on the National Board Funeral Service Arts section and the National Board Funeral Service Science section of the embalming examination s/he then may apply for registration as an apprentice embalmer. **In lieu of the National Board Funeral Service Arts examination, successful completion of the Missouri Funeral Service Arts examination will be accepted, or the board may accept successful completion of an examination administered by another state, territory or province of the United States that is substantially equivalent or more stringent than the Missouri Funeral Service Arts examination.** This application *[must]* **shall** contain the name(s) of the Missouri licensed embalmer(s) under whom s/he will serve. Each supervisor must be licensed and registered with and approved by the board. Any change in supervisor shall also be registered and approved within ten (10) business days after the change has been made. Applications *[must]* **shall** be submitted on the forms provided by the board and *[must]* **shall** be accompanied by the applicable fee. Application forms are available from the board office or the board's website at http://pr.mo.gov/embalmers.asp.

(13) Each apprentice embalmer shall provide to the board, on the application provided by the board, the name(s), location(s) and license number(s) of the *[Missouri]* licensed funeral establishment(s) where s/he is serving as an apprentice. If the apprentice embalmer begins work at any other *[Missouri]* licensed funeral establishment during the period of apprenticeship, the apprentice embalmer shall notify the board, on the form provided by the board, within ten (10) business days after the change has been made.

(14) The period of apprenticeship under this rule *[must]* **shall** be at least twelve (12) consecutive months. The apprentice embalmer *[must]* **shall** devote at least thirty (30) hours per week to his/her duties as an apprentice embalmer. During the period of the apprenticeship, the certificate of registration issued to the apprentice shall be displayed**, at all times,** in a conspicuous location accessible to the public at each funeral establishment where the apprentice is working.

(15) Prior to completion of the period of apprenticeship, the apprentice embalmer *[must]* **shall** achieve a grade of seventy-five percent (75%) or greater on the Missouri Law exam *[administered by the board]*. This exam may be taken any time after graduating from an accredited institution of mortuary science, but *[must]* **shall** be successfully completed prior to appearing before the board for oral examination. The Missouri Law exam covers knowledge of Chapter 333, RSMo and the rules governing the practice of embalming, funeral directing and funeral home licensing, along with government benefits, statutes and rules governing the care, custody, shelter, disposition and transportation of dead human bodies. The Missouri Law section also contains questions regarding Chapter 436, RSMo relating to pre-need statutes and Chapter**s** 193 and 194, RSMo relating to the Missouri Department of Health **and Senior Services** statutes, as well as questions regarding Federal Trade Commission rules and regulations and **Occupational Safety and Health Administration (**OSHA**)** requirements as they apply to Missouri licensees. Notification of intent to take this section of the examination *[must]* **shall** be received by the board at least *[forty-five (45)]* **fifteen (15) working** days prior to the date *[of the next regularly scheduled]* **the candidate plans to sit for the** examination.

(16) An affidavit provided by the board, signed by both the apprentice and the supervisor(s) verifying that the applicant has successfully completed the embalming of twenty-five (25) dead human bodies, *[must]* **shall** be submitted to the board at the time of completion of the apprenticeship period and prior to the oral examination.

(22) A Missouri licensed embalmer has the ongoing obligation to keep the board informed if the licensee has been finally adjudicated or found guilty of, or entered a plea of guilty or *nolo contendere*, in a criminal prosecution under the laws of any state or of the United States, *[for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated under Chapter 333, RSMo, for any offense an essential element of which is fraud, dishonesty, or an act of violence, or for any offense involving moral turpitude,]* whether or not sentence was imposed. This information *[must]* **shall** be provided to the board within thirty (30) days of being finally adjudicated or found guilty.

(24) Should an individual desire to obtain a Missouri embalmer's license after his/her license has become void under section 333.081.3, RSMo, the individual shall be required to make application, obtain a passing grade on the embalmer examination and shall be required to complete a six (6) consecutive month period of apprenticeship during which time s/he shall be required to embalm at least twelve (12) dead human bodies under the supervision of a Missouri licensed embalmer. The applicant shall be required to pay the current applicable apprenticeship*[,]* **and** application*[, administration and examination]* fees to obtain a new embalmer's license under this section. No previous apprenticeship, application or examination will be considered for a new application under this section. However, the successful examination results of the National Board Funeral Service Arts section and the National Board Funeral Science section will be accepted.

(25) *[All documents filed with the board under this rule shall become a part of its permanent files.]* **After successful completion of the embalmer's examination and the embalmer apprenticeship as provided in these rules, the embalmer applicant shall appear for the oral examination at a location specified by the board. To arrange for the oral examination, the embalmer applicant shall submit an application of a form supplied by the board and pay the applicable fees to the board. Applicants shall successfully pass the oral examination administered by the board for licensure.**

*AUTHORITY: sections 333.041 and 333.081, RSMo Supp. [2003] **2006** and 333.091, 333.111 and 333.121, RSMo 2000. This rule originally filed as 4 CSR 120-2.010. Original rule filed Oct. 17, 1975, effective Oct. 28, 1975. For intervening history, please consult the **Code of State Regulations**. Amended: Filed Jan. 30, 2007.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Embalmers and Funeral Directors, Becky Dunn, Executive Director, 3605 Missouri Boulevard, PO Box 423, Jefferson City, MO 65102, by facsimile at (573) 751-1155 or via email to embalm@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2120—State Board of Embalmers and Funeral Directors
Chapter 2—General Rules

PROPOSED AMENDMENT

20 CSR 2120-2.040 Licensure by Reciprocity. The board is proposing to amend sections (1)–(3), and (5).

PURPOSE: This amendment clarifies and lessens the processing time for applicants.

(1) Applications for a Missouri embalmer's or funeral director's license by reciprocity shall be made on the forms provided by the board and *[must]* **shall** be accompanied by the applicable fee. Application forms are available from the board office or the board's website at http://pr.mo.gov/embalmers.asp.

(2) Any person holding a valid unrevoked and unexpired license to practice embalming or funeral directing in another state or territory, is eligible to obtain licensure by reciprocity by *[submitting to]* **meeting the following requirements of** the board *[the following]*:

(B) Proof of his/her educational and professional qualifications, which *[must]* **shall** be substantially equivalent to the requirements existing in Missouri at the time s/he was originally licensed;

(C) A *[certified statement for]* **certificate of state endorsement from** the examining board of the state or territory in which the applicant holds his/her license showing the grade rating upon which his/her license was granted, a statement whether the reciprocity applicant has ever been subject to discipline or if there are any complaints pending against the reciprocity applicant and a recommendation for licensure in Missouri;

(D) Evidence sufficient to the board that the applicant has achieved a score of seventy-five percent (75%) or better on the National **Board** Funeral Service Arts Examination and the National **Board** Funeral Service Science Examination provided by the International Conference of Funeral Service Examining Boards, Inc., or designee of the board, if applying for an embalmer license or an embalmer and funeral director license; or

(E) Evidence sufficient to the board that the applicant has achieved a score of seventy-five percent (75%) or better on the National **Board** Funeral Service Arts Examination provided by the

International Conference of Funeral Service Examining Boards, Inc., or designee of the board, if applying for only a funeral director license; and

(F) *[Evidence that the]* **The** reciprocity applicant *[has]* **will be required to** successfully complete*[d]* the reciprocity examination with a score of seventy-five percent (75%) or better within twenty-four (24) months after the board's receipt of the reciprocity application. If an applicant by reciprocity has received either an embalmer or funeral director license from the board within twelve (12) months prior to applying for a license for which the reciprocity examination is required, that applicant will be exempt from taking the reciprocity examination for the second license;

(3) If the reciprocity applicant holds a license as an embalmer or funeral director in another state or territory with requirements less than those of this state, they may seek licensure in this state by *[submitting to]* **meeting the following requirements of** the board *[the following]*:

(A) *[A copy of his/her original license by the other state board;]* **An official certification from another state or territory which verifies that the licensee holds a valid, unrevoked and unexpired funeral director or embalmer license in the other state or territory;**

(B) A copy of his/her original funeral director or embalmer license from the other state or territory in which the applicant is licensed;

[(B)] **(C)** Proof of his/her educational and professional qualifications;

[(C)] **(D)** *[Evidence that the]* **The** reciprocity applicant *[has]* **will be required to** successfully complete*[d]* the reciprocity examination with a score of seventy-five percent (75%) or better within twenty-four (24) months after the board's receipt of the reciprocity application. If an applicant by reciprocity has received either an embalmer or funeral director license from the board within twelve (12) months prior to applying for a license for which the reciprocity examination is required, that applicant will be exempt from taking the reciprocity examination for the second license;

[(D) Evidence that the reciprocity applicant has successfully completed the reciprocity examination with a score of seventy-five percent (75%) or better either within twelve (12) months prior to application or within twenty-four (24) months after the board's receipt of the reciprocity application;]

(5) Applications *[must]* **for reciprocity licensure shall** be completed and received by the board at least *[forty-five (45)]* **thirty (30)** days prior to the date *[of the next regularly scheduled]* **the candidate plans to sit for the** examination and *[must]* **shall** be accompanied by the applicable *[administration]* fee. *[Scheduling payment for the examination will be made directly through the International Conference of Funeral Service Examining Boards, Inc., or designee of the board.]* Applications are deemed complete upon submission of any and all requisite forms required by the board, payment of requisite fees, and submission of all materials required by this rule or supplemental materials requested by the board. Application forms can be obtained from the board office or the board's website at http://pr.mo.gov/embalmers.asp.

AUTHORITY: sections 333.051, 333.091 and 333.111, RSMo 2000. This rule originally filed as 4 CSR 120-2.040. Original rule filed Oct. 17, 1975, effective Oct. 28, 1975. For intervening history, please consult the ***Code of State Regulations****. Amended: Filed Jan. 30, 2007.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Embalmers and Funeral Directors, Becky Dunn, Executive Director, 3605 Missouri Boulevard, PO Box 423, Jefferson City, MO 65102, by facsimile at (573) 751-1155 or via email to embalm@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2120—State Board of Embalmers and Funeral Directors
Chapter 2—General Rules

PROPOSED AMENDMENT

20 CSR 2120-2.050 Miscellaneous Rules. The board is proposing to amend sections (1) and add a new section (3).

PURPOSE: This amendment clarifies that all documents filed with the board under this rule shall become part of the board's permanent files.

(1) All licensees may **be** represent**ed** *[themselves before the board without an attorney]* **before the board by an attorney**. If the licensee desires to be represented by an attorney, the attorney *[must]* **shall** be licensed to practice law in Missouri or meet the requirements of the Supreme Court with respect to nonresident attorneys.

(3) All documents filed with the board shall become a part of its permanent files.

AUTHORITY: section 333.111, RSMo 2000. This rule originally filed as 4 CSR 120-2.050. Original rule filed Oct. 17, 1975, effective Oct. 28, 1975. For intervening history, please consult the ***Code of State of Regulations****. Amended: Filed Jan. 30, 2007.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Embalmers and Funeral Directors, Becky Dunn, Executive Director, 3605 Missouri Boulevard, PO Box 423, Jefferson City, MO 65102, by facsimile at (573) 751-1155 or via email to embalm@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2120—State Board of Embalmers and Funeral Directors
Chapter 2—General Rules

PROPOSED AMENDMENT

20 CSR 2120-2.071 Funeral Establishments Containing a Crematory Area. The board is proposing to amend sections (1), (3) and (5), delete section (8), renumber the remaining sections accordingly, amend the newly renumbered sections (9) and (12), delete section (17), and add a new section (16).

PURPOSE: This amendment provides clarification relating to cremation containers.

(1) Definitions.

(B) Cremation—the technical heating process which reduces remains to bone fragments through heat and evaporation; *[the]* **a** final disposition of dead human remains.

(D) Cremation chamber—the total **functioning** mechanical unit for the actual cremation process.

(3) Each Missouri licensed funeral establishment that contains a crematory area shall maintain permanent records which shall include:

(B) Information regarding the cremation which shall include:

1. The full name of the deceased;
2. The last place of residence of the deceased;
3. The place of death of the deceased;
4. The place of birth of the deceased;
5. The date and place of the funeral;
6. The name of the Missouri licensed funeral director**, other than a limited license funeral director**, with whom the arrangements were made;
7. The name of the person(s) who made the arrangements with the Missouri licensed funeral director and the relationship to the deceased;
8. The date and time when cremation was begun;
9. The name and address of the person to whom the cremated remains were released or the location where the cremated remains were placed; and
10. If the cremated remains were delivered or placed other than by an employee of the Missouri licensed funeral establishment, the name of the person who made the delivery or placement or the name of the business by which the cremated remains were shipped along with the receipt number.

(5) All records required to be maintained by this rule shall be maintained on the premises of the Missouri licensed funeral establishment for *[a minimum of the current calendar year and the preceding calendar year]* **two (2) years from the date the record was created**. All documents required to be maintained by this rule may be maintained electronically, but all documents shall be stored in such a manner to allow access by the board, or its assignee, and so the board, or its assignee, may easily and timely obtain hard copies or electronic copies in a format easily readable by the board, or its assignee.

[(8) If a Missouri licensed embalmer proceeds to embalm a body under the provisions in accordance with the provisions of 4 CSR 120-2.070(21)a Missouri licensed funeral establishment which employs the Missouri licensed embalmer shall not require payment for the embalming unless the funeral arrangements that are subsequently made authorized the embalming.]

[(9)] **(8)** The cremation chamber **shall be completely functioning at all times and** shall be constructed specially to withstand high temperatures and protect the surrounding structure. **A Function B establishment shall not be in violation of this rule if the cremation chamber is completely restored to functioning capacity within one hundred twenty (120) days from the date the cremation chamber ceases to be in compliance with this section. However, if there are extenuating circumstances and the cremation chamber could not be repaired, documentation of such shall be provided to the board for review and approval. Cremation chambers shall be maintained in proper working order and in compliance with all applicable Missouri Department of Health and Senior Services statutes, rules and regulations, Missouri Department of Natural Resources, statutes, rules and regulations, and all other applicable federal, city, county, and municipal statutes, rules and regulations.**

(A) If a Function B has only one (1) cremation chamber and that chamber is not functioning, written notification shall be made to the board within ten (10) business days after the cremation chamber stops functioning.

(B) A Function B establishment that has a nonfunctioning cremation chamber may arrange for cremation at another licensed establishment, if the use of an alternate establishment for purposes of cremation is disclosed to the person making the arrangements on the cremation authorization form.

[(10)] **(9)** The crematory area shall include a work center area equipped with forced air ventilation adequate to protect the health and safety of the operator and any other person(s) present.

[(11)] **(10)** No person shall be permitted in the crematory area while any dead human body is in the crematory area awaiting cremation or being cremated or while the cremation remains are being removed from the cremation chamber except the Missouri licensed funeral director, employees of the Missouri licensed funeral establishment in which the body is being cremated, members of the family of the deceased and persons authorized by the members of the family of the deceased or any other person authorized by law.

[(12)] **(11)** When there is no Missouri licensed funeral establishment employee in the crematory area, the crematory area shall be secure from entry by persons other than Missouri licensed funeral establishment employees.

[(13)] **(12)** Each body *[shall be]* delivered to the crematory**, if not already** in a cremation container, plastic pouch, cardboard cremation container, casket made of wood or wood product or metal**, shall be placed in such a pouch, container or casket**. If a metal container or casket is used *[the purchaser must]***, the person making the arrangements shall** be informed **by the Missouri licensed funeral director with whom the arrangements are made** of the disposition of the metal container or casket after cremation**, if not placed in the retort**. The cremation container shall be composed of a combustible, nonexplosive, opaque material which is adequate to assure protection to the health and safety of any person in the crematory area. The casket or container shall be leak resistant if the body enclosed is not embalmed or if death was caused by a contagious disease.

[(14)] **(13)** The Missouri licensed funeral director with whom the arrangements are made shall make inquiry to determine the presence or existence of any body prosthesis, bridgework or similar items.

[(15)] **(14)** No body shall be cremated with a pacemaker in place. The Missouri licensed funeral director with whom the arrangements are made shall take all steps necessary to ensure that any pacemakers are removed prior to cremation.

[(16)] **(15)** No body shall be cremated until after a completed death certificate has been filed with the local registrar as required by section 193.175, RSMo.

[(17) Each cremation container or casket into which a body is placed shall be placed into the cremation chamber with the body and be cremated and each cremation box or urn into which the cremated remains are placed after removal from the cremation chamber shall be labeled clearly with the full name of the deceased and the name of the Missouri

licensed funeral establishment with whom the arrangements were made.]

(16) Except for metal containers or caskets, each cremation container or casket into which a body is placed shall be placed into the cremation chamber with the body and be cremated. If a metal container or casket is used, the purchaser shall be informed by the funeral director at the time the arrangements are made of the disposition of the metal container or casket after cremation, if the container or casket is not to be placed in the retort. Each cremation box or urn into which the cremated remains are placed after removal from the cremation chamber shall be labeled clearly with the full name of the deceased and the name of the Missouri licensed funeral establishment with whom the arrangements were made.

[(18)] **(17)** The remains of only one (1) body shall be in the cremation chamber at one (1) time unless simultaneous cremation has been authorized in writing by the person(s) entitled to custody or control of each body.

[(19)] **(18)** Following the completion of the cremation process, all residual of the cremation process including the cremated remains and any other matter shall be thoroughly removed from the cremation chamber prior to placing another body in the cremation chamber.

[(20)] **(19)** If the cremated remains do not fill the interior of the cremation box adequately, the extra space may be filled with shredded paper or clean absorbent cotton.

[(21)] **(20)** If the cremated remains will not fit within the receptacle designated in the arrangements, the remainder shall be placed in a separate receptacle or, if written permission is obtained from the person entitled to custody or control of the body, disposed of in some other manner.

[(22)] **(21)** The cremation box shall be composed of rigid materials which shall be sealed in order to prevent the leakage of cremated remains or the entry of foreign objects.

[(23)] **(22)** If the cremated remains are to be shipped, the cremation box shall be packed securely in a corrugated cardboard box which is securely closed with tape acceptable to the shipper.

[(24)] **(23)** Cremated remains shall be shipped only by a method which has an internal tracing system available and which provides a receipt signed by the person accepting delivery.

[(25)] **(24)** Each urn into which cremated remains are placed shall be made of a durable material which shall enclose the cremated remains entirely.

[(26)] **(25)** Each Missouri licensed funeral establishment which comes into possession of cremated remains, whether or not it is the Missouri licensed funeral establishment at which the cremation occurred, shall retain the cremated remains until they are delivered, placed or shipped pursuant to the instructions of the person(s) entitled to custody or control of the body. However, nothing in this rule shall prohibit a Missouri licensed funeral establishment from disposing of cremated remains in another fashion if the Missouri licensed funeral establishment has obtained written permission for other disposition contingent upon the Missouri licensed funeral establishment attempting to dispose of the cremated remains according to instructions but being unable to do so through no fault of the Missouri licensed funeral establishment and provided that other disposition shall not occur prior to thirty (30) days after cremation.

[(27)] **(26)** Nothing in this rule shall be construed to prohibit a Missouri licensed funeral establishment which contains a crematory area from establishing more restrictive standards for its own operation.

[(28)] **(27)** The rules in this division are declared severable. If any rule, or section of a rule, is held invalid by a court of competent jurisdiction or by the Administrative Hearing Commission, the remaining provisions shall remain in full force and effect unless otherwise determined by a court of competent jurisdiction or by the Administrative Hearing Commission.

*AUTHORITY: sections 333.061, RSMo Supp. [2003] **2006** and 333.111, 333.121 and 333.145, RSMo 2000. This rule originally filed as 4 CSR 120-2.071. Original rule filed May 29, 1987, effective Sept. 11, 1987. For intervening history, please consult the **Code of State Regulations**. Amended: Filed Jan. 30, 2007.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Embalmers and Funeral Directors, Becky Dunn, Executive Director, 3605 Missouri Boulevard, PO Box 423, Jefferson City, MO 65102, by facsimile at (573) 751-1155 or via email to embalm@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2120—State Board of Embalmers and Funeral Directors
Chapter 2—General Rules

PROPOSED AMENDMENT

20 CSR 2120-2.090 Preparation Rooms/Embalming Room. The board is proposing to amend section (3), delete section (5), renumber the remaining sections accordingly, and amend the newly renumbered sections (6)–(11).

PURPOSE: This amendment provides clarification relating to plumbing in the embalming room.

(3) Floors, Walls and Ceilings. All preparation room floor surfaces *[must]* **shall** be smooth, nonabsorbent materials and so constructed as to be kept clean easily. Floor drains *[must]* **shall** be provided where the floor is to be subjected to cleaning by flooding. All walls and ceilings *[must]* **shall** be easily cleanable and light colored, and *[must]* **shall** be kept and maintained in good repair. All walls shall have washable surfaces.

[(5) Plumbing.

(A) All plumbing must be sized, installed and maintained so as to carry adequate quantities of water throughout the Missouri licensed funeral establishment, prevent contamination of the water supply, properly convey sewage and liquid waste from the preparation room to the sewage disposal system and prevent creation of an unsanitary condition or nuisance.

(B) All plumbing must be sized, installed and maintained in accordance with local plumbing laws and ordinances. Where local codes are not in force, the Missouri licensed funeral director shall contact the International Code Council (ICC), Chicago District Office, or designee of the board, 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795 or current address, for additional requirements.]

[6] **(5)** Sewage and Liquid Waste Disposal.

(A) All sewage and water-carried wastes from the entire Missouri licensed funeral establishment, including the preparation room, *[must]* **shall** be disposed of in a public sewage system or an approved disposal system which is constructed, operated and maintained in conformance with the minimum standards of the Department of Health and Senior Services.

(B) The following aspirators are approved for preparation rooms:

1. Electric aspirators;

2. Water-operated aspirators. All water-operated aspirators shall be protected from back siphonage by the minimum of an atmospheric vacuum breaker approved by the American Society of Sanitary Engineering or by the *Uniform Plumbing Code* and installed a minimum of twelve inches (12") above the maximum possible height of the embalming table; and

3. Water-controlled unit. All water-controlled units shall be installed and maintained according to the *Uniform Plumbing Code*, and properly protected from back siphonage with a backflow prevention device approved by the American Society of Sanitary Engineering or the *Uniform Plumbing Code*.

[(7)] **(6)** Solid Waste Disposal.

(A) Refuse, bandages, cotton and other solid waste materials *[must]* **shall** be kept in leakproof, nonabsorbent containers which *[must]* **shall** be covered with tight-fitting lids prior to disposal.

(B) All waste materials, refuse, and used bandage and cotton *[must]* **shall** be destroyed by reducing to ashes through incineration or *[must]* **shall** be sterilized and buried. Sterilization may be accomplished by soaking for thirty (30) minutes in a solution of five percent (5%) formaldehyde, one (1) pint of formalin to seven (7) pints of water.

[(8)] **(7)** Disposal of Body Parts. Human body parts not buried within the casket *[must]* **shall** be disposed of by incineration in a commercial or industrial-type incinerator or buried to a depth which will insure a minimum of three feet (3') of compacted earth cover (overlay).

[(9)] **(8)** A mechanical exhaust system is required. Care *[must]* **shall** be taken to prevent the discharge of exhaust air into an area where odors may create nuisance problems.

[(10)] **(9)** All preparation rooms and all articles stored in them *[must]* **shall** be kept and maintained in a clean and sanitary condition. All embalming tables, hoppers, sinks, receptacles, instruments and other appliances used in embalming or other preparation of dead human bodies *[must]* **shall** be so constructed that they can be kept and maintained in a clean and sanitary condition. The following minimum standards shall apply:

(A) An eye wash kit (bank) or suitable facilities for quick drenching or flushing of the eyes shall be provided within the area for immediate emergency use;

(B) Facilities *[must]* **shall** exist for the proper disinfection of embalming instruments and the embalming table;

(C) Facilities for the proper storage of embalming instruments *[must]* **shall** be maintained. At a minimum, a chest or cabinet *[must]* **shall** be used for the storage of embalming instruments;

(D) All types of blocks used in positioning a dead human body on an embalming table *[must]* **shall** be made of nonabsorbent material. All wooden blocks *[must]* **shall** be sealed and painted with enamel; and

(E) When not in use, embalming tables *[must]* **shall** be cleaned, disinfected and covered with a sheet.

[(11)] **(10)** Food and Beverages.

(A) There may be no direct opening between the preparation room and any room where food and beverages are prepared or served.

(B) The Department of Health and Senior Services sanitation laws and rules governing food sanitation apply to the operation, construction and sanitation of food service facilities, where provided for the comfort and convenience of a funeral party; provided, however, that coffee service utilizing single-service cups and spoons and a coffeemaker of easily cleanable construction shall be deemed acceptable where this service is the only food service offered.

(C) A Missouri licensed funeral home providing coffee service utilizing single-service items and coffeemakers of easily cleanable construction *[must]* **shall** provide a water supply faucet at a suitable sink of easily cleanable construction for the filling and cleaning of this equipment in an area separate from the preparation room and restrooms.

[(12)] **(11)** A separate wash sink (separate from slop drain sink) *[must]* **shall** be present or in close proximity to the preparation room for a personal hand wash facility for Missouri licensed embalmers and the disinfecting of embalming equipment. If the wash sink is not present in the preparation room, it shall be in a location close to the preparation room which is not accessible to the public and it shall be at a distance of no further than ten feet (10') from the door of the preparation room.

[(13)] **(12)** Preparation rooms shall contain only the articles, instruments, and items that are necessary for the preparation, embalming, and final disposition of dead human bodies.

[(14)] **(13)** Preparation rooms shall be secured with a functional lock so as to prevent entrance by unauthorized persons.

[(15)] **(14)** The rules in this division are declared severable. If any rule, or section of a rule, is held invalid by a court of competent jurisdiction or by the Administrative Hearing Commission, the remaining provisions shall remain in full force and effect unless otherwise determined by a court of competent jurisdiction or by the Administrative Hearing Commission.

AUTHORITY: sections 333.111.1, RSMo 2000 and 192.020 ***and*** *333.061, RSMo Supp. [2003]* ***2006****. This rule originally filed as 4 CSR 120-2.090. Original rule filed Oct. 17, 1975, effective Oct. 28, 1975. For intervening history, please consult the* ***Code of State Regulations****. Amended: Filed Jan. 30, 2007.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Embalmers and Funeral Directors, Becky Dunn, Executive Director, 3605 Missouri Boulevard, PO Box 423, Jefferson City, MO 65102, by facsimile at (573) 751-1155 or via email to embalm@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2120—State Board of Embalmers and Funeral Directors
Chapter 2—General Rules

PROPOSED AMENDMENT

20 CSR 2120-2.100 Fees. The board is proposing to amend section (1).

PURPOSE: This amendment eliminates examination administration fees.

(1) The following fees hereby are established by the State Board of Embalmers and Funeral Directors:

[(B) Embalmer State Board Examination Administration Fee	*$25.00]*
[(C)] **(B)** Embalmer Application Fee	$200
[(D)] **(C)** Embalmer Oral Examination Fee	$125
[(E)] **(D)** Embalmer Reciprocity Application Fee	$300
[(F)] **(E)** Embalmer Biennial Renewal Fee	$200
[(G) Missouri Law Examination Administration Fee	*$25.00]*
[(H)] **(F)** Funeral Director Application Fee	$200
[(I)] **(G)** Funeral Director Limited License Application Fee	$200
[(J) Funeral Director Missouri Funeral Service Arts Section Examination Administration Fee	*$25.00]*
[(K)] **(H)** Funeral Director Reciprocity Application Fee	$300
[(L)] **(I)** Funeral Director Biennial Renewal Fee	$200
[(M)] **(J)** Reactivation Fee (up to one (1) year after lapse)	$100
[(N)] **(K)** Reactivation Fee (up to two (2) years after lapse)	$200
[(O)] **(L)** Establishment Application Fee	$300
[(P)] **(M)** Amended Establishment Application Fee	$ 25
[(Q)] **(N)** Establishment Biennial Renewal Fee	$250
[(R)] **(O)** Reciprocity Certification Fee	$ 10
[(S) Reciprocity Examination Administration Fee	*$25.00]*
[(T)] **(P)** Duplicate Wallhanging Fee	$ 10
[(U)] **(Q)** Collection Fee for Bad Checks	$ 25
[(V)] **(R)** Law Book Requests	$ 5*
[(W)] **(S)** Examination Review Fee	$ 25
[(X)] **(T)** Background Check Fee (amount determined by the Missouri State Highway Patrol)	

*This fee will not apply to the initial copy of the law book which is automatically mailed to all applicants for licensure and to educational institutions of mortuary science. Furthermore, this fee will not be charged to licensees or any other individual, for additions or corrections to the law book after the initial copy is mailed.

AUTHORITY: section 333.111.1, RSMo 2000. This rule originally filed as 4 CSR 120-2.100. Emergency rule filed June 30, 1981, effective July 9, 1981, expired Nov. 11, 1981. Original rule filed June 30, 1981, effective Oct. 12, 1981. For intervening history, please consult the ***Code of State Regulations****. Amended: Filed Jan. 30, 2007.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Embalmers and Funeral Directors, Becky Dunn, Executive Director, 3605 Missouri Boulevard, PO Box 423, Jefferson City, MO 65102, by facsimile at (573) 751-1155 or via email to embalm@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

This section will contain the final text of the rules proposed by agencies. The order of rulemaking is required to contain a citation to the legal authority upon which the order of rulemaking is based; reference to the date and page or pages where the notice of proposed rulemaking was published in the *Missouri Register*; an explanation of any change between the text of the rule as contained in the notice of proposed rulemaking and the text of the rule as finally adopted, together with the reason for any such change; and the full text of any section or subsection of the rule as adopted which has been changed from that contained in the notice of proposed rulemaking. The effective date of the rule shall be not less than thirty (30) days after the date of publication of the revision to the *Code of State Regulations*.

The agency is also required to make a brief summary of the general nature and extent of comments submitted in support of or opposition to the proposed rule and a concise summary of the testimony presented at the hearing, if any, held in connection with the rulemaking, together with a concise summary of the agency's findings with respect to the merits of any such testimony or comments which are opposed in whole or in part to the proposed rule. The ninety (90)-day period during which an agency shall file its order of rulemaking for publication in the *Missouri Register* begins either: 1) after the hearing on the proposed rulemaking is held; or 2) at the end of the time for submission of comments to the agency. During this period, the agency shall file with the secretary of state the order of rulemaking, either putting the proposed rule into effect, with or without further changes, or withdrawing the proposed rule.

Title 9—DEPARTMENT OF MENTAL HEALTH
Division 10—Director, Department of Mental Health
Chapter 7—Core Rules for Psychiatric and Substance Abuse Programs

ORDER OF RULEMAKING

By the authority vested in the Department of Mental Health under section 630.050, RSMo 2000, the department amends a rule as follows:

9 CSR 10-7.140 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 2, 2006 (31 MoReg 1486–1489). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Department of Mental Health received two (2) comments on the proposed amendment from the following individuals: Audrey Hanson McIntosh, Attorney for the Missouri Association of Osteopathic Physicians and Surgeons (MAOPS); Chris Snyder, Program Executive for Preferred Family Healthcare.

COMMENT: Audrey Hanson McIntosh for MAOPS, wrote in opposition stating the rule is promulgated under the authority of sections 630.050 and 630.055, RSMo which does not appear to provide authority over physicians. Ms. McIntosh further stated the rule fails to take into account the extensive education and training of a physician and fails to recognize the specialized training of physicians is different from that of a counselor, social worker or psychologist.
RESPONSE: The proposed rule change has no new impact upon physicians. All physicians who meet the current definition under 9 CSR 10-7.140 subsection (2)(RR) will continue to meet the definition under the proposed amendment. No changes have been made to the amendment as a result of this comment.

COMMENT: Chris Snyder for Preferred Family Healthcare expressed concern the proposed rule change would result in fewer Qualified Substance Abuse Counselors (QSAP) available to treat consumers. The result of this reduced number of staff qualified to perform key treatment functions would result in fewer consumers receiving treatment.
RESPONSE AND EXPLANATION OF CHANGE: The Missouri Substance Abuse Counselors Certification Board, Inc. began offering the Registered Substance Abuse Professional credential in 2005. This credential would allow individual's who currently meet the QSAP criteria but are not licensed or certified to continue to meet the criteria under the proposed rule change. Additionally, the department will expand the language of the proposed amendment to include an individual who is within one (1) year of meeting the required criteria and has a department approved written training plan in order to address concerns regarding the availability of counselors. The department intends to file a rule amendment as soon as possible addressing the minimum criteria expected to be included in the written training plan.

9 CSR 10-7.140 Definitions

(2) Unless the context clearly indicates otherwise, the following terms shall mean:

(RR) Qualified substance abuse professional, a person who demonstrates substantial knowledge and skill regarding substance abuse by being one (1) of the following—

1. A physician or qualified mental health professional who is licensed in Missouri with at least one (1) year of full-time experience in the treatment of persons with substance use disorders;

2. A person who is certified or registered as a substance abuse professional by the Missouri Substance Abuse Counselors Certification Board, Inc.; or

3. An individual who is within one (1) year of meeting one of the above criteria and has a department approved written training plan;

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 23—Motor Vehicle

ORDER OF RULEMAKING

By the authority vested in the director of revenue under sections 301.020, RSMo Supp. 2006 and 301.380, RSMo 2000, the director amends a rule as follows:

12 CSR 10-23.255 Issuance of New and Replacement Vehicle Identification Numbers **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 15, 2006 (31 MoReg 1870–1872). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 23—Motor Vehicle

ORDER OF RULEMAKING

By the authority vested in the director of revenue under sections 306.030, RSMo Supp. 2006 and 306.031, RSMo 2000, the director amends a rule as follows:

12 CSR 10-23.270 Watercraft and Outboard Motor Identification Numbers **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 15, 2006 (31 MoReg 1873). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 23—Motor Vehicle

ORDER OF RULEMAKING

By the authority vested in the director of revenue under sections 301.600, 301.610, 301.620, 301.660, 306.400, 306.405, 306.410, 306.430, 700.350, 700.355, 700.360 and 700.380, RSMo Supp. 2006, the director amends a rule as follows:

12 CSR 10-23.446 Notice of Lien **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 15, 2006 (31 MoReg 1873–1874). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 43—Investment of Nonstate Funds

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 136.120, RSMo 2000, the director amends a rule as follows:

12 CSR 10-43.010 Department of Revenue Investment Group **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 16, 2006 (31 MoReg 1646). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 43—Investment of Nonstate Funds

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 136.120, RSMo 2000, the director amends a rule as follows:

12 CSR 10-43.020 Investment Instruments for Nonstate Funds **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 16, 2006 (31 MoReg 1646–1647). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 43—Investment of Nonstate Funds

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 136.120, RSMo 2000, the director amends a rule as follows:

12 CSR 10-43.030 Collateral Requirements for Nonstate Funds **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 16, 2006 (31 MoReg 1647–1648). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 2—General Scope of Medical Service Coverage

ORDER OF RULEMAKING

By the authority vested in the Division of Medical Services under sections 207.020, 208.153 and 208.201, RSMo 2000, the division amends a rule as follows:

13 CSR 70-2.100 Title XIX Procedure of Exception to Medical Care Services Limitations **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2006 (31 MoReg 1804). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations.*

SUMMARY OF COMMENTS: No comments were received.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 82—General Licensure Requirements

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 198.018, 198.076, 198.079 and 198.515, RSMo 2000, 198.022 and 198.073, RSMo Supp. 2006, the department amends a rule as follows:

19 CSR 30-82.010 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 2, 2006 (31 MoReg 1495–1499). Those sections with changes are reprinted here. The proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The department received ninety-five (95) comments on the proposed amendment.

Tracy Niekamp, Program Manager of the Licensure and Certification Unit commented that:
COMMENT: Ms. Niekamp commented that section (1) must be revised due to corrections being required for form MO 580-2631 (9-05), Application for License to Operate a Long-Term Care Facility, which was incorporated by reference in the proposed amendment. Minor but necessary changes were required on this form, which will now show the revision date of (12-06). This form required additional level of licensure subcategories to indicate whether a residential care facility (RCF) was choosing to comply with former residential care facility II (RCF II) requirements and whether an assisted living facility (ALF) was choosing to admit or retain residents with physical, cognitive or other impairments that prevent them from evacuating the facility with minimal assistance and therefore comply with 19 CSR 30-86.045.
RESPONSE AND EXPLANATION OF CHANGE: The department agrees that since MO 580-2631 required revision and must be incorporated by reference in this amendment, the revised form must be incorporated into this order of rulemaking and has revised section (1) to reference the revised form.

COMMENT: Ms. Niekamp commented that paragraph (1)(A)11. has a typographical error in the last line. The word "or" in the phrase "program or any state" is incorrect and should be replaced with "of" so that the phrase reads "program of any state or territory."
RESPONSE AND EXPLANATION OF CHANGE: The department agrees and has revised paragraph (1)(A)11. to correct the typographical error.

COMMENT: Ms. Niekamp commented that paragraph (1)(C)2. must be revised due to corrections being required for form MO 580-2623 (9-05), which was incorporated by reference in this proposed amendment. Minor but necessary changes were required on this form. This form required additional level of licensure subcategories to indicate whether a residential care facility (RCF) was choosing to comply with former residential care facility II (RCF II) requirements and whether an assisted living facility (ALF) was choosing to admit or retain residents with physical, cognitive or other impairments that prevent them from evacuating the facility with minimal assistance and therefore comply with 19 CSR 30-86.045. Corrections For Long-Term Care Facility License Application MO 580-2623 form will now show the revision date of (12-06).
RESPONSE AND EXPLANATION OF CHANGE: The department agrees that the revised form MO 580-2623 must be incorporated into this order of rulemaking and has revised paragraph (1)(C)2. in order to incorporate the new form revision date.

COMMENT: Ms. Niekamp commented that (1)(D)2. must be revised due to corrections being required for form MO 580-2623 (9-05), which was incorporated by reference in this proposed amendment. Minor but necessary changes were required on this form. This form required additional level of licensure subcategories as indicated in the previous comment. Corrections For Long-Term Care Facility License Application MO 580-2623 form will now show the revision date of (12-06).
RESPONSE AND EXPLANATION OF CHANGE: The department agrees that the revised form MO 580-2623 must be incorporated into this order of rulemaking and has revised paragraph (1)(D)2. in order to incorporate the form revision date.

Ms. Leah Dering, owner and operator of The Boarding Inn, Residential Care Facility and Sylvan House Residential Care Facility commented that:
COMMENT: Ms. Dering commented that her small residential care facilities could not stand the additional cost of a licensed nursing home administrator as required by paragraph (1)(L)5.
RESPONSE AND EXPLANATION OF CHANGE: It was not the department's intent to require all residential care facilities to have a licensed administrator. In order to clarify the provisions for a licensed nursing home administrator in residential care facilities, the department has revised paragraph (1)(L)5.

Barbara Miltenberger of Husch & Eppenberger, LLC, on behalf of Missouri Health Care Association (MHCA), commented that:
COMMENT: MHCA commented that paragraph (1)(Q)3. requires that all assisted living facilities (ALFs) on August 28, 2006 will be required only to meet the current residential care facility II regulations. Proposed regulation 19 CSR 30-86.043 contains the current RCF II regulations. The proposed 19 CSR 30-86.047 rule contains the ALF regulations. The proposed 19 CSR 30-86.045 rule contains the additional assisted living regulations for those ALFs that choose to admit or retain residents who cannot exit the building safely with minimal assistance. The department has no authority to excuse any licensed assisted living facility from being required to meet the assisted living legislation statutory requirements, yet that is exactly what 19 CSR 30-82.010(1)(Q)3. does.

In fact, under this section, the ALF would have to make a special request in a notarized letter to become subject to the statutory requirements. Moreover, there is no requirement that the ALF would ever be required to submit such a request. However, under the 19 CSR 30-82.010(2), any facility seeking licensure as an ALF, where previously licensed at some other level of care or seeking a new license, would be required to comply with the regulations for an ALF (19 CSR 30-86.047), to reflect that after August 28, 2006, all ALFs must comply with 19 CSR 30-86.047.
RESPONSE AND EXPLANATION OF CHANGE: All facilities licensed as an assisted living facility are required to comply with assisted living facility legislation, (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006)) and with proposed rules 19 CSR 30-86.047 and 19 CSR 30-86.045, applicable once the rules have become effective. The department has deleted paragraph (1)(Q)3.

COMMENT: MHCA commented that RCFs are not required to have a licensed administrator unless they were previously licensed as an RCF II and choose to comply with RCF II standards in effect on August 27, 2006. Paragraph (1)(L)5. needs to be changed to clarify that RCFs not choosing to meet former RCF II standards are not required to have licensed administrators.
RESPONSE AND EXPLANATION OF CHANGE: Please refer to the response and explanation of changes listed above in the response to Ms. Leah Dering's comment regarding paragraph (1)(L)5.

Jorgen Schlemeirer, on behalf of Missouri Assisted Living Association (MALA);
Connie McClain, Marketing and Management for Lone Pine Residential Care, Ironton Residential Care, Maple Ridge Residential Care, South Haven Residential Care and Dent County Residential Care;
Shelly Long, Office Secretary, Lone Pine Residential Care;
Patty Anderson, Office Manger of Lone Pine Residential Care;
Bridgett Madden, Assistant Manager of Lone Pine Residential Care;
Sheri Pratt, Manager of Lone Pine Residential Care;
Jill Moise, Manager of Ironton Residential Care;
Dawn Gainer, Manager of Maple Ridge Residential Care;
Lisa Hedrick, Manager of Dent County Residential Care;
Wilma Davis, Administrator of South Haven Residential Care;
Dave Thomas, President, Thomas Marketing, Inc.;
Pam Thomas, R.N., Administrator, Thomas Management, Inc.;
Sharron K. Davis-Buckner, Administrator of Loving Care Home;
Cynthia Skidmore, Administrator of Autumn Place Residential Care of Joplin;
Karen Price, Owner of Dove Senior Citizen Home;
Phillip O. Farley, Owner of Sunnyhills Residential Care Facility;
Tom Walker, Administrator of Superior Park;
Frank Mosby, Administrator of Sabbath Manor;
Jill Hieronymus, Owner of Royal Oaks Residence;
Roswitha Long, Administrator of Countryside Care Center;
Peggy Keith, Administrator of Parkwood Meadows Assisted Living;
Tammy Smith, Director of Gasconade Terrace Retirement Center;
Ralene E. Davis, Owner/Manager of Guardian Angel RCF;
Bob Adams, Administrator of Walnut Street Residential Care and of The Colonial Home;
Joanna Mooney, Administrator of Cedars of Liberty and representing Lucy Webb, Owner;
Tricia Mosbacher, Regional Director of Operations Americare;
Linda Atchley, Operator of Colonial Manor LLC;
Teresa Compton, Administrator of Maple Crest Manor, Frederick Street Manors I & II;
Ronald Conway, Administrator of Colonial Retirement Center, Inc.;
Michael Long, Owner of Cedar Ridge Care Center;
Donna Quimby-Edwards, Owner of Century Pines Assisted Living;
JoAne Pate; Director of Nursing for Arana Manor and Silver Spur;
Bruce Harris, Administrator/Owner/Operator of Harris Care Centers;
Lisa Harris, President/Owner/Operator of Harris Care Centers;
Jeanette McCamis, Administraor/Owner of Wood Oaks, Inc. and Autumn Woods, Inc.;
Eric F. Fink, Administrator of Whispering Oaks Health Care Center, Inc.;
Jean Summers, Vice President of Operations for Americare;
Darren L. Redd, Vice President of Blue Castle of the Ozarks, Inc.;
Gary Boggs, Owner of Lakeshores Residential Care Facility;
Sandra Rutherford, Administrator of Lakeshores Residential Care Facility;
Bruce Hillis, Vice President of RH Montgomery Properties, Inc.; and
Ali Chaudhry, Owner/Operator of Sabbath Manor, Country and Fontainbleu commented that:

COMMENT: MALA and listed associates commented that paragraph (1)(A)10. appears to be arbitrary and unnecessary. The law already requires a criminal background check and imposes certain disqualifying conditions of employment. Therefore protection for the resident is in place. Proposed regulation 19 CSR 30-82.010(1)(A)10. requires continuous paperwork when virtually any employee is hired, or terminated for any reason. The definition of "principal" is very broad that any person with any supervisory role over another would qualify under this definition. We propose removing this requirement. Any meaningful oversight of the names collected under this provision should trigger additional costs, and without costs, the information is simply that. Either the fiscal note is wrong since it does not account for this provision or the department is going to do nothing with the information. The fiscal note does not account for this additional task in the private entity cost either.

RESPONSE AND EXPLANATION OF CHANGE: In order for the department to determine whether an applicant or existing operator is in compliance with sections 198.022.1(5) and 198.036, RSMo Supp. 2005, the department must have the Social Security number in order to have the ability to verify whether the operator or a principal in the operation of a facility is on the Medicare/Medicaid exclusion list. The application already asks whether the operator or a principal is on the list, so the operator should already be in possession of the names and titles of the principals and their Social Security numbers since this information would be needed to check the exclusion list in order to truthfully answer the question. The fiscal note is accurate to the best of the department's ability. No change has been made in paragraph (1)(A)10. as a result of this comment. However, the department has revised MO 580-2631 (9-05), Application for License to Operate a Long-Term Care Facility due to concerns voiced regarding confidentiality of providing Social Security numbers of the list of principals. Due to the concerns, the department has revised the form so that the Social Security numbers are listed on a separate page and not on the front page of the application.

COMMENT: MALA and listed associates commented that paragraph (1)(L)5. implies that all residential care facilities shall have a licensed administrator. We hope this is an oversight since prior to assisted living facility legislation (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006)) taking effect RCF Is were not required to employ a licensed nursing home administrator. We propose changing the language to clarify that it does not refer to those RCFs that were formerly licensed as an RCF I.

RESPONSE AND EXPLANATION OF CHANGE: Please refer to the response and explanation of changes listed above in response to Ms. Leah Dering's comment regarding 19 CSR 30-82.010(1)(L)5.

19 CSR 30-82.010 General Licensure Requirements

(1) Persons wishing to operate a skilled nursing facility, intermediate care facility, assisted living facility or residential care facility shall complete form MO 580-2631 (12-06), Application for License to Operate a Long-Term Care Facility, incorporated by reference in this rule and available through the Department of Health and Senior Services' (department's) website at www.dhss.mo.gov, or by mail at: Department of Health and Senior Services Warehouse, Attention General Services Warehouse, PO Box 570, Jefferson City, MO 65102-0570, telephone: (573) 526-3861. This rule does not incorporate any subsequent amendments or additions. The completed application shall contain a statement that the information submitted is true and correct to the operator's knowledge and belief and shall be signed under oath or affirmation before a notary public by a person with the express authority to sign on behalf of the operator. The completed application form shall be submitted to Fee Receipts, Section for Long Term Care, Department of Health and Senior Services, PO Box 570, 930 Wildwood, Jefferson City, MO 65109. One application may be used to license multiple facilities if located on the same premises.

(A) The applicant shall submit the following documents and information as listed in the application:

1. Financial information demonstrating that the applicant has the financial capacity to operate the facility;

2. A document disclosing the location, capacity and type of licensure and certification of any support buildings, wings or floors housing residents on the same or adjoining premises or plots of ground;

3. A document disclosing the name, address and type of license of all other long-term care facilities owned or operated by either the applicant or by the owner of the facility for which the application is being submitted;

4. A copy of any executed management contracts between the applicant and the manager of the facility;

5. A copy of any executed contract conveying the legal right to the facility premises, including, but not limited to, leases, subleases, rental agreements, contracts for deed and any amendments to those contracts;

6. A copy of any contract by which the facility's land, building, improvements, furnishings, fixtures or accounts receivable are pledged in whole or in part as security, if the value of the asset pledged is greater than five hundred dollars ($500);

7. A nursing home surety bond or noncancelable escrow agreement, if the applicant holds or will hold facility residents' personal funds in trust;

8. A document disclosing the name, address, title and percentage of ownership of each affiliate of any general partnership, limited partnership, general business corporation, nonprofit corporation, limited liability company or governmental entity which owns or operates the facility or is an affiliate of an entity which owns or operates the facility. If an affiliate is a corporation, partnership, or LLC, a list of the affiliate's affiliates must also be submitted. As used in this rule, the word "affiliate" means:

A. With respect to a partnership, each partner thereof;

B. With respect to a limited partnership, the general partner and each limited partner with an interest of five percent (5%) or more in the limited partnership;

C. With respect to a corporation, each person who owns, holds, or has the power to vote five percent (5%) or more of any class of securities issued by the corporation, and each officer and director;

D. With respect to an LLC, the LLC managers and members with an interest of five percent (5%) or more;

9. If applicable, a document stating the name and nature of any additional businesses in operation on the facility premises and the document issued by the division giving its prior written approval for each business;

10. A list of all principals in the operation of the facility and their addresses and titles and, so that the department may verify the information disclosed pursuant to paragraphs (1)(A)11. and (1)(A)12. of this rule, the Social Security numbers or employer identification numbers of the operator and all principals in the operation of the facility. As used in this rule, "principal" means officer, director, owner, partner, key employee, or other person with primary management or supervisory responsibilities;

11. Disclosure concerning whether the operator or any principals in the operation of the facility are excluded from participation in the Title XVIII (Medicare) or Title XIX (Medicaid) program of any state or territory;

12. Disclosure concerning whether the operator or any principals in the operation of the facility have ever been convicted of a felony in any state or federal court concerning conduct involving either management of a long-term care facility or the provision or receipt of health care services; and

13. Emergency telephone, fax and email contact information for the facility administrator, director of nursing and the operator's corporate office.

(C) If, after filing an application, the operator identifies an error or if any information changes the issuance of the license, the operator shall—

1. Submit the correction or additional information to the department's Licensure and Certification Unit in a letter accompanied by a notarized statement that the information being submitted is true and correct to the best of the operator's knowledge and belief; or

2. Submit the correction or additional information to the department's Licensure and Certification Unit. Information shall be submitted using form MO 580-2623 (12-06), Corrections For Long-Term Care Facility License Application, incorporated by reference in this rule and available through the Department of Health and Senior Services' (department's) website at www.dhss.mo.gov, or by mail at: Department of Health and Senior Services Warehouse, Attention General Services Warehouse, PO Box 570, Jefferson City, MO 65102-0570, telephone: (573) 526-3861. This rule does not incorporate any subsequent amendments or additions. The completed application form shall be signed by a person with express authority to sign on behalf of the operator and shall be submitted to Fee Receipts, Section for Long-Term Care, Department of Health and Senior Services, PO Box 570, 930 Wildwood, Jefferson City, MO 65109.

(D) If, as a result of an application review, the department requests a correction or additional information, the operator, within ten (10) working days of receipt of the written request shall—

1. Submit the correction or additional information to the department in a letter accompanied by a notarized statement that the information being submitted is true and correct to the best of the operator's knowledge and belief; or

2. Submit the correction or additional information using form MO 580-2623 (12-06), Corrections For Long-Term Care Facility License Application referenced in paragraph (1)(C)2. of this rule.

(L) After receiving a license application, the department shall review the application, investigate the applicant and the statements sworn to in the application for license and conduct any necessary inspections. A license shall be issued if—

1. The department has determined that the application is complete, and that all necessary documents have been filed with the application including an approved nursing home bond or noncancelable escrow agreement if personal funds of residents are held in trust;

2. The department has determined that the statements in the application are true and correct;

3. The department has determined that the facility and the operator are in substantial compliance with the provisions of sections 198.003–198.096, RSMo and the corresponding rules;

4. The department has determined that the applicant has the financial capacity to operate the facility;

5. The department has verified that the administrator of a residential care facility that was licensed as a residential care facility II on August 27, 2006 and chooses to continue to meet all laws, rules and regulations that were in place on August 27, 2006 for a residential care facility II, assisted living facility, an intermediate care facility or a skilled nursing facility is currently licensed by the Missouri Board of Nursing Home Administrators under the provisions of Chapter 344, RSMo;

6. The department has received the fee required by subsection (1)(I) of this rule;

7. The applicant meets the definition of operator as defined in 19 CSR 30-83.010;

8. The applicant has received a Certificate of Need, if required, or has received a determination from the Certificate of Need Program that no certificate is required, has completed construction, and is in substantial compliance with the licensure rules and laws;

9. The department has determined that neither the operator, owner or any principals in the operation of the facility have ever been convicted of an offense concerning the operation of a long-term care facility or other health care facility or, while acting in a management capacity, ever knowingly acted or knowingly failed to perform any duty which materially and adversely affected the health, safety, welfare or property of a resident;

10. The department has determined that neither the operator, owner or any principals in the operation of the facility are excluded from participation in the Title XVIII (Medicare) or Title XIX (Medicaid) program of any state or territory;

11. The department has determined that neither the operator, owner or any principals in the operation of the facility have ever been convicted of a felony in any state or federal court concerning conduct involving either management of a long-term care facility or the provision or receipt of health care services; and

12. The department has determined that all fees due the state have been paid.

(Q) To request issuance of an amended license or temporary operating permit currently in effect, the operator shall—

1. Submit a written request to the department containing the request for amendment, the date the operator would like the amendment to be effective, and the number of the license or temporary operating permit to be amended; and

2. Submit a fee for the issuance of the amended license or temporary operating permit as required by subsection (1)(R) of this rule.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 83—Definition of Terms

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 198.005, 198.006 and 198.073, RSMo Supp. 2006 and 198.009, RSMo 2000, the department amends a rule as follows:

19 CSR 30-83.010 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 2, 2006 (31 MoReg 1499–1502). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The department received two hundred seventeen (217) comments on the proposed amendment.

EXPLANATION OF ADDITIONAL CHANGES: Based on comments made at the January 17 and 14, 2007 meetings of the Joint Committee on Administrative Rules (JCAR) regarding the proposed amendment filed with JCAR on December 29, 2006, the department is changing the definition of "Individualized service plan" in section (22).

COMMENT: Denise Clemonds, CEO for Missouri Association of Homes for the Aging (MoAHA) and the following associates of MoAHA:
Marshal Cope, Executive Director for New Florence Care Center;
Elliot Planells of St. Andrews Management Services;
Susan McClenahan, Executive Director for The Sarah Community;
Joan Devine, Clinical Services Director for St. Andrews Management Services;
Christopher Wiltse, Anna House Administrator;
Julie Klein, Mispah Manor Administrator;
Charlotte Lehmann, Executive Director for Cape Albeon; and
Tyler Troutman, Executive Director for Brooking Park commented that the definition in section (3) should include the word "care" to conform to assisted living legislation, CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006).
RESPONSE AND EXPLANATION OF CHANGE: Section (3) will be changed to add the word "care."

COMMENT: Ms. Clemonds and the listed associates of MoAHA commented that the definition in section (22) requires "outcomes" to be added to the individualized service plan (ISP). Assisted living legislation, CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006) outlines what should be in the ISP and requiring "outcomes" is not authorized by statute. Please remove this from the proposed rules.
RESPONSE: The intent of the regulation is to ensure that the ISP is a useful tool for staff and residents. Identifying expected outcomes entails a process of developing, implementing and evaluating the progress and effectiveness of the ISP. This process does not conflict with the statutory components of the ISP. No changes were made to the rule as a result of this comment.

COMMENT: Ms. Clemonds and the listed associates of MoAHA suggested section (25) be replaced with the following language: Keeping residents in place means maintaining residents in place during a fire in lieu of evacuation where a building's occupants are not capable of evacuation, where evacuation has a low likelihood of success or where local fire officials recommend it as having a better likelihood of success and/or lower risk of injury.
RESPONSE AND EXPLANATION OF CHANGE: Section (25) will be changed to add the suggested language and to clarify that the local fire official's recommendation must be written.

COMMENT: Carroll Rodriquez, Public Policy Director of the Missouri Coalition of Alzheimer's Association Chapters recommended adding to section (22) that the planning document be prepared by an appropriately trained and qualified individual, with the input of other direct care staff and in partnership with the resident, or legal representative of the resident.
RESPONSE: The assisted living legislation, section 198.006(5), RSMo, CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006), requires "an appropriately trained and qualified individual," as defined by law, to complete the community based assessment. The provisions for the ISP are in section 198.073.4(6), RSMo, and do not include a requirement for the ISP to be completed by "an appropriately trained and qualified individual." Additionally, the assisted living legislation does not include required training and qualifications for the individual who prepares the ISP. No changes were made to the rule as a result of this comment.

COMMENT: Norma J. Collins, Associate State Director of AARP Missouri, on behalf of AARP, commented that to make the definition in section (21) more meaningful, "homelike may include" should be changed to "homelike includes." The above items, particularly a private room, private bath and place where residents can have privacy and security, are essential to a homelike environment.
RESPONSE: The department disagrees with this recommendation. The language suggested by the commenter is restrictive and assumes that all people identify the same things as essential to a home-like environment. The intent of the regulation is to allow residents to determine the things that are essential to each individual. No changes were made to the rule as a result of this comment.

COMMENT: Ms. Collins commented that to recognize the role of direct care staff and the resident, section (22) should be changed to "the planning document prepared by appropriately trained and qualified staff, with input of direct care staff, in partnership with the resident and the resident's family or other surrogate decision-makers when appropriate. . . ."
RESPONSE: The assisted living legislation, section 198.006(5), RSMo, CCS HCS SCS SB616, 93rd General Assembly, Second Regular Session (2006), requires "an appropriately trained and qualified individual," as defined by law, to complete the community based assessment. The provisions for the ISP are in section 198.073.4. (6), RSMo, and do not include a requirement for the ISP to be completed by "an appropriately trained and qualified individual." Additionally, the assisted living legislation does not include required training and qualifications for the individual who prepares the ISP. No changes were made to the rule as a result of this comment.

COMMENT: Charles Schott, Jr., Executive Director and CEO of Good Shepard Care Center District commented that the assisted living legislation, CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006), outlines what should be in the ISP and the required "outcomes" in section (22) is not authorized by the statute. Requiring "outcomes" would place additional responsibilities on staff, over and above providing services in a "home-like environment." It mirrors requirements for a nursing home and medical

model. The requirement for "outcomes" from the proposed rules should be removed.
RESPONSE: The intent of the regulation is to ensure that the ISP is a useful tool for staff and residents. Identifying expected outcomes entails a process of developing, implementing and evaluating the progress and effectiveness of the ISP. This process does not conflict with the statutory components of the ISP. No changes were made to the rule as a result of this comment. However, changes have been made as indicated in the "Explanation of Additional Changes" for this section.

COMMENT: Mr. Schott commented that the definition in section (25) only refers to residents who are not capable of evacuation and residents with a low likelihood of success. In our area, the local fire officials recommend all residents remain in place, except for those in immediate danger, until the fire department personnel arrive. The purpose of this procedure is to avoid injury of residents while attempting to evacuate and giving the firemen access to hallways not congested by residents trying to evacuate. I would ask that you consider adding to the definition, the following language " . . .or where it is recommended by local fire officials as having a better likelihood of success and/or a lower risk of injury."
RESPONSE AND EXPLANATION OF CHANGE: Section (25) will be changed to add the suggested language and to clarify that the local fire official's recommendation must be written.

COMMENT: Stacy Tew-Lovasz, on behalf of Sunrise Communities, commented that "services to be provided and the outcomes expected for the resident" should be deleted and replaced with "and goals for the resident" in section (22).
RESPONSE: The intent of the regulation is to ensure that the ISP is a useful tool for staff and residents. Identifying expected outcomes entails a process of developing, implementing and evaluating the progress and effectiveness of the ISP. This process does not conflict with the statutory components of the ISP. No changes were made to the rule as a result of this comment.

COMMENT: Jorgen Schlemeirer, on behalf of Missouri Assisted Living Association (MALA) and the following associates of MALA:
Connie McClain, Marketing/Mgmt for Lone Pine Residential Care, Ironton Residential Care, Maple Ridge Residential Care, South Haven Residential Care and Dent County Residential Care;
Shelly Long, Office Secretary, Lone Pine Residential Care;
Patty Anderson, Office Manger of Lone Pine Residential Care;
Bridgett Madden, Assistant Manager of Lone Pine Residential Care;
Sheri Pratt, Manager of Lone Pine Residential Care;
Jill Moise, Manager of Ironton Residential Care;
Dawn Gainer, Manager of Maple Ridge Residential Care;
Lisa Hedrick, Manager of Dent County Residential Care;
Wilma Davis, Administrator of South Haven Residential Care;
Dave Thomas, President, Thomas Marketing, Inc.;
Pam Thomas, R.N., Administrator, Thomas Management, Inc.;
Sharron K. Davis-Buckner, Administrator of Loving Care Home;
Cynthia Skidmore, Administrator of Autumn Place Residential Care of Joplin;
Karen Price, Owner of Dove Senior Citizen Home;
Phillip O. Farley, Owner of Sunnyhills Residential Care Facility;
Tom Walker, Administrator of Superior Park;
Frank Mosby, Administrator of Sabbath Manor;
Jill Hieronymus, Owner of Royal Oaks Residence;
Roswitha Long, Administrator of Countryside Care Center;
Peggy Keith, Administrator of Parkwood Meadows Assisted Living;
Tammy Smith, Director of Gasconade Terrace Retirement Center;
Ralene E. Davis, Owner/Manager of Guardian Angel RCF;
Bob Adams, Administrator of Walnut Street Residential Care and of The Colonial Home;
Joanna Mooney, Administrator of Cedars of Liberty and representing Lucy Webb, Owner;
Tricia Mosbacher, Regional Director of Operations Americare;
Linda Atchley, Operator of Colonial Manor LLC;
Teresa Compton, Administrator of Maple Crest Manor, Frederick Street Manors I & II;
Ronald Conway, Administrator of Colonial Retirement Center, Inc.;
Michael Long, Owner of Cedar Ridge Care Center;
Donna Quimby-Edwards, Owner of Century Pines Assisted Living;
JoAne Pate; Director of Nursing for Arana Manor and Silver Spur;
Bruce Harris, Administrator/Owner/Operator of Harris Care Centers;
Lisa Harris, President/Owner/Operator of Harris Care Centers;
Jeanette McCamis, Administrator/Owner of Wood Oaks, Inc. and Autumn Woods, Inc.;
Eric F. Fink, Administrator of Whispering Oaks Health Care Center, Inc.;
Jean Summers, Vice President of Operations for Americare;
Darren L. Redd, Vice President of Blue Castle of the Ozarks, Inc.;
Gary Boggs and Cecile Boggs, Owner of Lakeshores Residential Care Facility;
Sandra Rutherford, Administrator of Lakeshores Residential Care Facility;
Bruce Hillis, Vice President of RH Montgomery Properties, Inc.;
Ali Chaudhry, Owner/Operator of Sabbath Manor, Country and Fontainbleu;
Michelle Redd, Administrator of Blue Castle of the Ozarks, Inc.;
Virginia Mincks, LPN, Blue Castle of the Ozarks, Inc.;
Lanora Porterfield, Director of Nursing at Bolivar Manor House; and
Michele Vinson, Administrator of Bolivar Manor House commented that section (3) changes the definition of "assisted living facilities" from that in the assisted living legislation, CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006). Section (3) states, "twenty-four (24) hour services" and it should be "twenty-four (24) hour care and services." Jorgen Schlemeirer and the listed associates of MALA suggested changing the definition to match the statute.
RESPONSE AND EXPLANATION OF CHANGE: Section (3) will be changed to add the word "care."

COMMENT: Jorgen Schlemeirer and the listed associates of MALA commented that the definition in section (21) is duplicated in 19 CSR 30-86.047.
RESPONSE: The department agrees. However, due to the promulgation of multiple new rules associated with the assisted living legislation, CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006), the department determined the duplication of this definition was necessary. No changes were made to the rule as a result of this comment.

COMMENT: Jorgen Schlemeirer and the listed associates of MALA commented that section (22) adds "services to be provided, and the outcomes expected for the resident" to the definition of what is required in the individual service plan. This exceeds statutory authority and should be limited to the statutory language.
RESPONSE: The intent of the regulation is to ensure that the ISP is a useful tool for staff and residents. Identifying expected outcomes entails a process of developing, implementing and evaluating the progress and effectiveness of the ISP. This process does not conflict with the statutory components of the ISP. No changes were made to the rule as a result of this comment.

COMMENT: Jorgen Schlemeirer and the listed associates of MALA commented that the definition in section (25) is duplicated in 19 CSR 30-86.047.
RESPONSE: The department agrees. However, due to the promulgation of multiple new rules associated with the assisted living legislation, CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006), the department determined the duplication

of this definition was necessary. No changes were made in the rule as a result of this comment.

19 CSR 30-83.010 Definition of Terms

(3) Assisted living facility (ALF)—Shall mean any premises, other than a residential care facility, intermediate care facility, or skilled nursing care facility, that is utilized by its owner, operator, or manager to provide twenty-four (24) hour care and services and protective oversight to three (3) or more residents who are provided with shelter, board, and who may need and are provided with the following:

(22) Individualized service plan (ISP)—Shall mean the planning document prepared by an assisted living facility which outlines a resident's needs and preferences, services to be provided, and the goals expected by the resident or the resident's legal representative in partnership with the facility.

(25) Keeping residents in place—Shall mean maintaining residents in place during a fire in lieu of evacuation where a building's occupants are not capable of evacuation, where evacuation has a low likelihood of success, or where it is recommended in writing by local fire officials as having a better likelihood of success and/or lower risk of injury.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 84—Training Program for Nursing Assistants

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 198.076, RSMo 2000, and 198.005 and 198.073, RSMo Supp. 2006, the department amends a rule as follows:

19 CSR 30-84.030 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 2, 2006 (31 MoReg 1502–1503). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The department received one hundred nine (109) comments on the proposed amendment.

COMMENT: Jorgen Schlemeirer, on behalf of Missouri Assisted Living Association (MALA);
Connie McClain, Marketing/Mgmt for Lone Pine Residential Care, Ironton Residential Care, Maple Ridge Residential Care, South Haven Residential Care and Dent County Residential Care;
Shelly Long, Office Secretary, Lone Pine Residential Care;
Patty Anderson, Office Manger of Lone Pine Residential Care;
Bridgett Madden, Assistant Manager of Lone Pine Residential Care;
Sheri Pratt, Manager of Lone Pine Residential Care;
Jill Moise, Manager of Ironton Residential Care;
Dawn Gainer, Manager of Maple Ridge Residential Care;
Lisa Hedrick, Manager of Dent County Residential Care;
Wilma Davis, Administrator of South Haven Residential Care;
Dave Thomas, President, Thomas Marketing, Inc.;
Pam Thomas, R.N., Administrator, Thomas Management, Inc.;
Sharron K. Davis-Buckner, Administrator of Loving Care Home;
Cynthia Skidmore, Administrator of Autumn Place Residential Care of Joplin;
Karen Price, Owner of Dove Senior Citizen Home;
Phillip O. Farley, Owner of Sunnyhills Residential Care Facility;
Tom Walker, Administrator of Superior Park;
Frank Mosby, Administrator of Sabbath Manor;
Jill Hieronymus, Owner of Royal Oaks Residence;
Roswitha Long, Administrator of Countryside Care Center;
Peggy Keith, Administrator of Parkwood Meadows Assisted Living;
Tammy Smith, Director of Gasconade Terrace Retirement Center;
Ralene E. Davis, Owner/Manager of Guardian Angel RCF;
Bob Adams, Administrator of Walnut Street Residential Care and of The Colonial Home;
Joanna Mooney, Administrator of Cedars of Liberty and representing Lucy Webb, Owner;
Tricia Mosbacher, Regional Director of Operations Americare;
Linda Atchley, Operator of Colonial Manor LLC;
Teresa Compton, Administrator of Maple Crest Manor, Frederick Street Manors I & II;
Ronald Conway, Administrator of Colonial Retirement Center, Inc.;
Michael Long, Owner of Cedar Ridge Care Center;
Donna Quimby-Edwards, Owner of Century Pines Assisted Living;
JoAne Pate; Director of Nursing for Arana Manor and Silver Spur;
Bruce Harris, Administrator/Owner/Operator of Harris Care Centers;
Lisa Harris, President/Owner/Operator of Harris Care Centers;
Jeanette McCamis, Administrator/Owner of Wood Oaks, Inc. and Autumn Woods, Inc.;
Eric F. Fink, Administrator of Whispering Oaks Health Care Center, Inc.;
Jean Summers, Vice President of Operations for Americare;
Darren L. Redd, Vice President of Blue Castle of the Ozarks, Inc.;
Gary Boggs and Cecile Boggs, Owner of Lakeshores Residential Care Facility;
Sandra Rutherford, Administrator of Lakeshores Residential Care Facility;
Bruce Hillis, Vice President of RH Montgomery Properties, Inc.;
Ali Chaudhry, Owner/Operator of Sabbath Manor, Country and Fontainbleu;
Michelle Redd, Administrator of Blue Castle of the Ozarks, Inc.;
Virginia Mincks, LPN, Blue Castle of the Ozarks, Inc.;
Lanora Porterfield, Director of Nursing at Bolivar Manor House; and
Michele Vinson, Administrator of Bolivar Manor House commented that subsection (11)(A) appears to define the term "sponsoring agency" as a training agency and then removes long-term care (LTC) associations from that definition.
RESPONSE AND EXPLANATION OF CHANGE: The department agrees and has amended subsection (11)(A) to restore LTC associations as sponsoring agencies.

COMMENT: Jorgen Schlemeirer and listed associates of MALA commented that section (6) changes the courses required to become Level I medication administration approved and registered with the state. The additional hours of training associated with the new manual are too excessive and arbitrary.
RESPONSE AND EXPLANATION OF CHANGE**:** The rule does not include changes in the Level I medication administration training hours necessary to receive a certificate of successful course completion. The department incorrectly identified the training manual as the 2001 edition, and this resulted in some confusion regarding the training hours. Section (6) has been amended to correct this error.

COMMENT: Denise Clemonds, CEO for Missouri Association of Homes for the Aging;
Marshal Cope, Executive Director for New Florence Care Center;
Elliot Planells of St. Andrews Management Services;
Susan McClenahan, Executive Director for The Sarah Community;
Joan Devine, Clinical Services Director for St. Andrews Management Services;
Christopher Wiltse, Anna House Administrator;
Julie Klein, Mispah Manor Administrator;
Charlotte Lehmann, Executive Director for Cape Albeon; and

Tyler Troutman, Executive Director for Brooking Park commented that subsection (11)(A) appears to eliminate LTC associations as sponsoring agencies. It is a public benefit for LTC associations to be sponsoring agencies and this change should be deleted from the rule. LTC associations are appropriate to provide this service to facilities.
RESPONSE AND EXPLANATION OF CHANGE: The department agrees and has amended subsection (11)(A) to restore LTC associations as sponsoring agencies.

COMMENT: Barbara Miltenberger of Husch & Eppenberger, LLC, on behalf of Missouri Health Care Association, commented that section (1) states that the purpose of the Level I Medication Aide Training Program is to prepare individuals for employment in residential care facilities (RCFs) and assisted living facilities (ALFs). This section does not contain any substantive changes to the course curriculum to address the increased acuity of the ALF residents. Furthermore, there is no change in the qualifications to become a Level I medication aide.

The department should require additional qualifications for staff that provide care for residents who cannot evacuate the facility with only minimal assistance. The appropriate level of training and qualifications, at a minimum, would be a certified medication technician.
RESPONSE: The department disagrees with the recommendation. Assisted living facilities are required by rule to staff according to the individualized needs of the residents. Both level I medication aides and certified medication technicians are allowed to administer only those types of medications for which they have been trained in the department approved level I medication aide and certified medication technician courses respectively. Level I medication aides and certified medication aides administer medications under the license of the licensed nurse. The facility is required to staff according to residents' needs. Therefore, the facility is required to have licensed nursing staff available to administer medications for which certified staff are not appropriately trained to administer. Thus, while Level 1 medication aides may be employed in ALFs, an ALF will be responsible for providing care using staff with appropriate skills. No changes were made to the rule as a result of this comment.

19 CSR 30-84.030 Level I Medication Aide

(6) The course developed by the Missouri Department of Elementary and Secondary Education and the Department of Health and Senior Services as outlined in the manual entitled *Level I Medication Aide* (50-6064-S and 50-6064-I) 1993 edition, produced by the Instructional Materials Laboratory, University of Missouri-Columbia, incorporated by reference in this rule and available through the Department of Health and Senior Services, PO Box 570, Jefferson City, MO 65102-0570, shall be considered the approved course curriculum. This rule does not incorporate any subsequent amendments or additions to the materials incorporated by reference. Students and instructors each shall have a copy of this manual.

(11) Sponsoring Agencies.

(A) The following entities are eligible to apply to the department to be an approved training agency: an area vocational-technical school, a comprehensive high school, a community college, an approved four (4) year institution of higher learning or an RCF or ALF licensed by the department or an LTC association.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 84—Training Program for Nursing Assistants

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 198.009 and 198.076, RSMo 2000 and 198.005 and 198.073, RSMo Supp. 2006, the department amends a rule as follows:

19 CSR 30-84.040 Insulin Administration Training Program **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 2, 2006 (31 MoReg 1504). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 86—Residential Care Facilities and Assisted Living Facilities

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services and under sections 198.005, 198.006, 198.073, RSMo Supp. 2006, and 198.076, RSMo 2000, the department amends a rule as follows:

19 CSR 30-86.012 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 2, 2006 (31 MoReg 1504–1506). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The department received ninety-eight (98) comments on the proposed amendment.

COMMENT: A department staff member commented that the last sentence of section (6) eliminated minimum square footage requirements for private bedrooms in existing facilities required to comply with 19 CSR 30-86.043.
RESPONSE AND EXPLANATION OF CHANGE: The department agrees and has amended section (6) to restore the current requirement.

COMMENT: A department staff member commented that it is not clear whether the last sentence of section (6) addresses minimum square footage requirements for multiple occupancy bedrooms in existing facilities required to comply with 19 CSR 30-86.047.
RESPONSE AND EXPLANATION OF CHANGE: The department agrees and has amended section (6) to clarify that the sixty (60) square foot minimum requirement for multiple occupancy bedrooms includes all facilities licensed between November 13, 1980 and December 31, 1987.

COMMENT: A department staff member commented that it is not clear whether the third and fourth sentences of section (16) apply to assisted living facilities.
RESPONSE AND EXPLANATION OF CHANGE: The department agrees and has amended section (16) to clarify that the third sentence includes all facilities licensed prior to November 13, 1980 and the fourth sentence includes all facilities licensed between November 13, 1980 and December 31, 1987.

COMMENT: A department staff member commented that section (26) does not include summer temperature requirements for air conditioning systems and individual room air conditioning units in assisted living facilities whose plans were approved or were built on or after August 28, 2006.
RESPONSE AND EXPLANATION OF CHANGE: The department agrees and has amended section (26) to include assisted living facilities whose plans were approved or were built on or after August 28, 2006.

COMMENT: Norma J. Collins, Associate State Director—Advocacy, AARP Missouri commented that section (27) requires that, "A facility that is built or has plans approved on or after August 28, 2006, shall be more home-like than institutional with respect to construction and physical plant standards."

The requirement is not very useful without clear standards for what "more home-like than institutional" means. AARP policy is that all newly constructed assisted living facilities should provide "private living units—with sleeping and living areas, food preparation and storage facilities, and a bathroom—shared only at the resident's request." A private room is essential for creating a home-like environment and should be part of the definition of "more home-like than institutional."
RESPONSE: Issues related to a home-like environment for facilities built or with plans approved on or after August 28, 2006, have been addressed in 19 CSR 30-86.012, 19 CSR 30-86.032, 19 CSR 30-86.047, 19 CSR 30-86.052, 19 CSR 30-87.020, 19 CSR 30-87.030 and 19 CSR 30-88.010. The elements of a home-like environment have been incorporated in many of the rules because a home-like environment involves more than the construction of the facility and the physical environment. The construction requirements in 19 CSR 30-86.012 that apply to facilities built or with plans approved on or after August 28, 2006, allow individual preferences, and do not prohibit construction that is conducive to a home-like environment, unless the construction causes a health or safety issue for residents. No changes have been made to the rules as a result of this comment.

COMMENT: Barbara Miltenberger, Husch & Eppenberger, LLC, on behalf of Missouri Health Care Association, commented that section (1) states that the construction standards in the section (1) apply to residential care facilities and assisted living facilities. However, section (1) does not differentiate between residential care facilities (RCFs) and assisted living facilities. The definitions found in section 198.005(6)(c), RSMo (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006)), page 3, lines 45-46 and Section 198.005 (24), RSMo (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006)) mandate that assisted living facilities be constructed differently from RCFs. Section (1) does not do so. She suggested specific provisions be added to construction standards that relate to the social model of care.

In addition, under the assisted living facility legislation, residents who have elected to receive hospice care may remain in an assisted living facility. The prohibitions against the need for skilled nursing care or being bed-bound are lifted for hospice patients. There is no limitation on how many residents receiving hospice care may be admitted or retained in an assisted living facility. In fact, under the statute and regulations, all of an assisted living facility's residents could elect hospice care and be bed-bound. Because the restrictions against being bed-bound or requiring skilled care are removed for hospice residents, assisted living facilities must be constructed to limit the spread of fire and so staff can evacuate a bed-bound individual in his or her bed, just as if in a skilled nursing facility. This means that corridors must be a certain width and there must be sufficient fire-resistant construction. For example, in 19 CSR 30-85.012(87) relating to intermediate care and skilled nursing facilities, "all floor construction shall be completely of noncombustible material regardless of the construction type of the building." A similar requirement is not found in this proposed regulation. Therefore, the Missouri Health Care Association believes that any assisted living facility that agrees to provide or allow skilled nursing care in its building must comply with the same construction requirements imposed on skilled nursing facilities in 19 CSR 30-85.012 to protect its residents in the same manner as required of a skilled nursing facility.
RESPONSE: Section 198.005, RSMo (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006)) specifically allows any assisted living facility to admit or retain individuals receiving licensed hospice care and prescribes fire safety requirements. Additionally, the department believes the standards included in the amendment to 19 CSR 30-86.022 adequately address fire safety. 19 CSR 30-86.022 includes requirements for compliance with applicable National Fire Protection Association standards and codes, and subsection (3)(B) of this rule specifically addresses fire-resistant construction. No changes have been made to the rule as a result of the comments.

COMMENT: Barbara Miltenberger, Husch & Eppenberger, LLC, on behalf of Missouri Health Care Association, commented that section (27) states, "A facility that is built or has plans approved after August 28, 2006 shall be more home-like than institutional with respect to construction and physical plant standards." As noted above, the use of "facilities" makes this section applicable to RCFs as well, which goes beyond the department's statutory authority.
RESPONSE AND EXPLANATION OF CHANGE: The department added subsection (A) to clarify that section (27) applies to assisted living facilities.

COMMENT: Barbara Miltenberger, Husch & Eppenberger, LLC, on behalf of Missouri Health Care Association, commented that section (27) gives no guidance as to what is "more home-like" and "less institutional." The requirements of "home-like" found in 19 CSR 30-86.032(1) should be incorporated into the construction standards, at a minimum. A "social model of care" facility is organized generally around smaller modules or units with the separate kitchens and community areas, creating a more home-like atmosphere. At the very least, the regulation should say that any assisted living facility licensed after August 28, 2006 must be constructed in a manner that is based on a social model of care rather than a medical model. Specific construction standards addressing the social model of care should be included in the regulation. Without specific standards, there is no guidance to the department and no legal standards by which the department may approve or disapprove any plans for new or remodeled assisted living facility.
RESPONSE: The department disagrees with this comment. The department recognizes that construction is a part of being either a home-like or an institutional setting, and has defined "home-like" in 19 CSR 30-83.010 Definition of Terms to include references to how a facility is designed. This definition provides guidance to facilities, inspection staff and also to department technical staff when approving or disapproving plans for new or remodeled assisted living facilities. Assisted living facility legislation and 19 CSR 30-86.012 (27) provides the regulatory authority. No changes have been made to the rule as a result of this comment.

COMMENT: Jorgen Schlemeier, on behalf of the Missouri Assisted Living Facility Association (MALA), and the following associates of MALA:
Connie McClain, Marketing and Management for Lone Pine Residential Care, Ironton Residential Care, Maple Ridge Residential Care, South Haven Residential Care and Dent County Residential Care;
Shelly Long, Office Secretary, Lone Pine Residential Care;
Patty Anderson, Office Manger of Lone Pine Residential Care;
Bridgett Madden, Assistant Manager of Lone Pine Residential Care;
Sheri Pratt, Manager of Lone Pine Residential Care;
Jill Moise, Manager of Ironton Residential Care;

Dawn Gainer, Manager of Maple Ridge Residential Care;
Lisa Hedrick, Manager of Dent County Residential Care;
Wilma Davis, Administrator of South Haven Residential Care;
Dave Thomas, President, Thomas Marketing, Inc.;
Pam Thomas, R.N., Administrator, Thomas Management, Inc.;
Sharron K. Davis-Buckner, Administrator of Loving Care Home;
Cynthia Skidmore, Administrator of Autumn Place Residential Care of Joplin;
Karen Price, Owner of Dove Senior Citizen Home;
Phillip O. Farley, Owner of Sunnyhills Residential Care Facility;
Tom Walker, Administrator of Superior Park;
Frank Mosby, Administrator of Sabbath Manor;
Jill Hieronymus, Owner of Royal Oaks Residence;
Roswitha Long, Administrator of Countryside Care Center;
Peggy Keith, Administrator of Parkwood Meadows Assisted Living;
Tammy Smith, Director of Gasconade Terrace Retirement Center;
Ralene E. Davis, Owner/Manager of Guardian Angel RCF;
Bob Adams, Administrator of Walnut Street Residential Care and of The Colonial Home;
Joanna Mooney, Administrator of Cedars of Liberty and representing Lucy Webb, Owner;
Tricia Mosbacher, Regional Director of Operations Americare;
Linda Atchley, Operator of Colonial Manor LLC;
Teresa Compton, Administrator of Maple Crest Manor, Frederick Street Manors I & II;
Ronald Conway, Administrator of Colonial Retirement Center, Inc.;
Michael Long, Owner of Cedar Ridge Care Center;
Donna Quimby-Edwards, Owner of Century Pines Assisted Living;
JoAne Pate; Director of Nursing for Arana Manor and Silver Spur;
Bruce Harris, Administrator/Owner/Operator of Harris Care Centers;
Lisa Harris, President/Owner/Operator of Harris Care Centers;
Jeanette McCamis, Administrator/Owner of Wood Oaks, Inc. and Autumn Woods, Inc.;
Eric F. Fink, Administrator of Whispering Oaks Health Care Center, Inc.;
Jean Summers, Vice President of Operations for Americare;
Darren L. Redd, Vice President of Blue Castle of the Ozarks, Inc.;
Gary Boggs, Owner of Lakeshores Residential Care Facility;
Sandra Rutherford, Administrator of Lakeshores Residential Care Facility;
Bruce Hillis, Vice President of RH Montgomery Properties, Inc.; and
Ali Chaudhry, Owner/Operator of Sabbath Manor, Country and Fontainbleu;
Michelle Redd, Administrator of Blue Castle of the Ozarks, Inc.;
Virginia Mincks, LPN, Blue Castle of the Ozarks, Inc.;
Lanora Porterfield, Director of Nursing at Bolivar Manor House; and Michele Vinson, Administrator of Bolivar Manor House commented that the statute states in the definition of "social model of care" that any RCF II licensed "prior to August 28, 2006, shall qualify as being more homelike than institutional with respect to construction and physical plant standards." This language, as it refers to construction standards, needs to be appropriately stated in section (27).
RESPONSE AND EXPLANATION OF CHANGE: The department added subsection (A) to clarify that section (27) applies to assisted living facilities.

COMMENT: The Missouri Assisted Living Association and listed associates suggested that the language in section (27) also reflect the language in section 198.006(24) CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session, RSMo allowing all facilities licensed as RCF IIs on August 27, 2006, be grandfathered indefinitely with respect to construction standards when such facility wants to up-license to an assisted living facility.
RESPONSE: The department believes this is adequately addressed in section (27) of this rule and in 19 CSR 30-82.010 General Licensure Requirements. No changes have been made to the rule as a result of this comment.

19 CSR 30-86.012 Construction Standards for Assisted Living Facilities and Residential Care Facilities

(6) Facilities whose plans were approved after December 31, 1987, shall provide a minimum of seventy (70) square feet per resident in private and multiple occupancy bedrooms. This square footage calculation shall include the floor space used for closets and built-in furniture and equipment if these are for resident use and the closet space does not exceed five (5) square feet per resident. Private bedrooms in existing facilities that are required to comply with the requirements of 19 CSR 30-86.043 or 19 CSR 30-86.047, and multiple occupancy bedrooms in facilities licensed between November 13, 1980 and December 31, 1987, shall have a minimum of sixty (60) square feet of floor space per resident. II

(16) Facilities whose plans were approved or were initially licensed after December 31, 1987, shall have a community living and dining area separate from resident bedrooms with at least twenty-five (25) square feet per resident. The community living and dining area may be combined with footage required for another long-term care facility when the facility is on the same premises as another licensed facility. Facilities that are required to comply with the requirements of 19 CSR 30-86.043 licensed prior to November 13, 1980, must have a living room area but they are exempt from minimum size requirements. Facilities licensed between November 13, 1980 and December 31, 1987, shall have a community living area with twenty (20) square feet per resident for the first twenty (20) residents and an additional fifteen (15) square feet per resident over a census of twenty (20). II

(26) Facilities whose plans were approved or which were initially licensed after December 31, 1987, shall provide an air-conditioning system, or individual room air-conditioning units, capable of maintaining resident-use areas at eighty-five degrees Fahrenheit (85°F) (29.4°C) at the summer design temperature. II

(27) Home-Like Requirements with Respect to Construction Standards.

(A) Any assisted living facility formerly licensed as a residential care facility shall be more home-like than institutional with respect to construction and physical plant standards. II

(B) Any assisted living facility licensed as a residential care facility II prior to August 28, 2006, shall qualify as being more home-like than institutional with respect to construction and physical plant standards. II

(C) Any assisted living facility that is built or has plans approved on or after August 28, 2006, shall be more home-like than institutional with respect to construction and physical plant standards. II

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 86—Residential Care Facilities and Assisted Living Facilities

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services and under sections 198.005 and 198.073, RSMo Supp. 2006, and 198.076, RSMo 2000, the department amends a rule as follows:

19 CSR 30-86.022 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 2, 2006 (31 MoReg 1506–1509). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The department received ninety-eight (98) comments on this proposed amendment.

COMMENT: A department staff member commented that subsection (4)(A) did not need the new language that had been added in the proposed amendment.
RESPONSE AND EXPLANATION OF CHANGE: The department agrees and has restored subsection (4)(A).

COMMENT: A department staff member commented that subsection (8)(G) should include the sentence "Those facilities with plans approved on or after October 1, 2000, shall comply with the 1996 edition of NFPA 72." This sentence had been deleted in the proposed amendment.
RESPONSE AND EXPLANATION OF CHANGE: The department agrees that the sentence should not have been deleted from the proposed amendment and has reinserted the last sentence of subsection (8)(G).

COMMENT: A department staff member commented that the new language that had been added to subsection (8)(H) to differentiate between former residential care facilities I and II is not needed.
RESPONSE AND EXPLANATION OF CHANGE: The department agrees that it is not necessary to differentiate between former residential care facilities I and II for the purpose of this requirement and amended section (8) accordingly.

COMMENT: A department staff member commented that subsection (9)(A) does not need to reference residential care and assisted living facilities but simply "facilities" and the last sentence in the section is unclear.
RESPONSE AND EXPLANATION OF CHANGE: The department agrees that subsection (9)(A) does not need to reference "residential care and assisted living facilities" but only "facilities" and has amended the subsection accordingly. Additional changes were made to subsection (9)(A) to clarify the last sentence. This change does not change the context of the rule.

COMMENT: A department staff member commented that subsection (9)(E) should not use the term "assisted living" since the subsection deals only with facilities required to comply with 19 CSR 30-86.043.
RESPONSE AND EXPLANATION OF CHANGE: The department agrees that the term "assisted living" should be deleted since only subsection (9)(E) contains requirements for facilities required to comply with 19 CSR 30-86.043 and has amended subsection (9)(E) deleting the term "assisted living."

COMMENT: A department staff member commented that subsection (9)(F) should be amended to include the language "licensed prior to November 13, 1980, and multi-storied residential care facilities formerly licensed as residential care facilities I licensed on or after November 13, 1980."
RESPONSE AND EXPLANATION OF CHANGE: The department agrees and has amended subsection (9)(F) accordingly.

COMMENT: Jorgen Schlemeirer, Missouri Assisted Living Association (MALA) and the following associates of MALA:
Connie McClain, Marketing and Management for Lone Pine Residential Care, Ironton Residential Care, Maple Ridge Residential Care, South Haven Residential Care and Dent County Residential Care;
Shelly Long, Office Secretary, Lone Pine Residential Care;
Patty Anderson, Office Manger of Lone Pine Residential Care;
Bridgett Madden, Assistant Manager of Lone Pine Residential Care;
Sheri Pratt, Manager of Lone Pine Residential Care;
Jill Moise, Manager of Ironton Residential Care;
Dawn Gainer, Manager of Maple Ridge Residential Care;
Lisa Hedrick, Manager of Dent County Residential Care;
Wilma Davis, Administrator of South Haven Residential Care;
Dave Thomas, President, Thomas Marketing, Inc.;
Pam Thomas, R.N., Administrator, Thomas Management, Inc.;
Sharron K. Davis-Buckner, Administrator of Loving Care Home;
Cynthia Skidmore, Administrator of Autumn Place Residential Care of Joplin;
Karen Price, Owner of Dove Senior Citizen Home;
Phillip O. Farley, Owner of Sunnyhills Residential Care Facility;
Tom Walker, Administrator of Superior Park;
Frank Mosby, Administrator of Sabbath Manor;
Jill Hieronymus, Owner of Royal Oaks Residence;
Roswitha Long, Administrator of Countryside Care Center;
Peggy Keith, Administrator of Parkwood Meadows Assisted Living;
Tammy Smith, Director of Gasconade Terrace Retirement Center;
Ralene E. Davis, Owner/Manager of Guardian Angel RCF;
Bob Adams, Administrator of Walnut Street Residential Care and of The Colonial Home;
Joanna Mooney, Administrator of Cedars of Liberty and representing Lucy Webb, Owner;
Tricia Mosbacher, Regional Director of Operations Americare;
Linda Atchley, Operator of Colonial Manor LLC;
Teresa Compton, Administrator of Maple Crest Manor, Frederick Street Manors I & II;
Ronald Conway, Administrator of Colonial Retirement Center, Inc.;
Michael Long, Owner of Cedar Ridge Care Center;
Donna Quimby-Edwards, Owner of Century Pines Assisted Living;
JoAne Pate; Director of Nursing for Arana Manor and Silver Spur;
Bruce Harris, Administrator/Owner/Operator of Harris Care Centers;
Lisa Harris, President/Owner/Operator of Harris Care Centers;
Jeanette McCamis, Administrator/Owner of Wood Oaks, Inc. and Autumn Woods, Inc.;
Eric F. Fink, Administrator of Whispering Oaks Health Care Center, Inc.;
Jean Summers, Vice President of Operations for Americare;
Darren L. Redd, Vice President of Blue Castle of the Ozarks, Inc.;
Gary Boggs, Owner of Lakeshores Residential Care Facility;
Sandra Rutherford, Administrator of Lakeshores Residential Care Facility;
Bruce Hillis, Vice President of RH Montgomery Properties, Inc.; and
Ali Chaudhry, Owner/Operator of Sabbath Manor, Country and Fontainbleu;
Michelle Redd, Administrator of Blue Castle of the Ozarks, Inc.;
Virginia Mincks, LPN, Blue Castle of the Ozarks, Inc.;
Lenora Portefield, Director of Nursing at Bolivar Manor House; and
Michele Vinson, Administrator of Bolivar Manor House commented that subsection (15)(D), "Every facility shall use a personal electronic monitoring device for any resident…" should apply only to those facilities licensed pursuant to 19 CSR 30-86.045. Section 198.073.6(5) (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006)) clearly limits this type of monitoring to those facilities who care for residents who need more than minimal assistance.
RESPONSE AND EXPLANATION OF CHANGE: The department agrees that the requirement, "Every facility shall use a personal electronic monitoring device for any resident whose physician recommends the use of such device." should not be included in the requirements for section (15) and has deleted subsection (15)(D).

COMMENT: Norma J. Collins, Associate State Director—Advocacy, AARP Missouri commented that subsection (15)(D) requires that "Every facility shall use a personal electronic monitoring device for any resident whose physician recommends the use of such device."

At the end of this sentence should be added, "and the resident agrees." Residents should have the right to accept or refuse services and supportive equipment, including electronic monitoring devices.
RESPONSE: As stated above, 19 CSR 30-86.022(15)(D) has been deleted from the proposed amendment 19 CSR 30-86.022. The comment more appropriately addresses proposed amendment 19 CSR 30-86.045(3)(A)3. Therefore, the department considered the comment as it relates to the proposed amendment 19 CSR 30-86.045(3)(A)3., which is written in accordance with assisted living legislation, section 198.073.6(5) (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006)). Specific resident rights are set forth in 19 CSR 30-88.010(13). This regulation includes requirements that all Missouri long-term care facilities ensure each resident has the right to accept or refuse treatment. The department considers electronic monitoring recommended by a physician to be a treatment that a resident or his/her legal representative could choose not to accept. No changes to this proposed amendment were made as the result of this comment.

19 CSR 30-86.022 Fire Safety Standards for Residential Care Facilities and Assisted Living Facilities

(4) Range Hood Extinguishing Systems.

(A) In facilities licensed on or before July 11, 1980, or in any facility with fewer than twenty-one (21) beds, the kitchen shall provide either:

1. An approved automatic range hood extinguishing system properly installed and maintained in accordance with the 1994 NFPA 96, *Standard on Ventilation Control and Fire Protection of Commercial Cooking Operations*; or

2. A portable fire extinguisher of at least ten (10) pounds, or the equivalent, in the kitchen area in accordance with the 1994 NFPA 10. II/III

(8) Fire Alarm Systems.

(G) The fire alarm system shall be an electrically supervised system with standby emergency power installed and maintained in accordance with the 1996 NFPA 72. Those facilities that are required to comply with the requirements of 19 CSR 30-86.042 and 19 CSR 30-86.043, with plans approved prior to October 1, 2000, shall comply with the provision of the 1975 edition of NFPA 72A, *Local Protective Signaling Systems*. Those facilities with plans approved on or after October 1, 2000, shall comply with the 1996 edition of NFPA 72. I/II

(H) At a minimum, the fire alarm system shall consist of a manual pull station at or near each attendant's station and each required exit, smoke detectors located no more than thirty feet (30') apart in the corridors or passageways with no point in the corridor or passageway more than fifteen feet (15') from a detector and no point in the building more than thirty feet (30') from a detector. In facilities licensed prior to November 13, 1980, smoke detectors located every fifty feet (50') will be acceptable. The smoke detectors will not be required in facilities licensed prior to November 13, 1980, if a complete heat detector system, interconnected to the fire alarm system, is provided in every space throughout the facility. It must include audible signal(s) which can be heard throughout the building and a main panel that interconnects all alarm-activating devices and audible signals. I/II

(9) Protection from Hazards.

(A) In facilities licensed on or after November 13, 1980, for more than twelve (12) residents, hazardous areas shall be separated by construction of at least a one (1)-hour fire-resistant rating. In facilities equipped with a complete automatic fire alarm system, not individual residential-type detectors, the one (1)-hour fire separation is required only for furnace or boiler rooms. Hazardous areas equipped with a complete sprinkler system are not required to have this one (1)-hour fire separation. Doors to hazardous areas shall be self-closing and shall be kept closed unless an electromagnetic hold-open device is used which is interconnected with the fire alarm system. Facilities formerly licensed as residential care facility I or II, and existing prior to November 13, 1980, shall be exempt from this requirement. II

(E) In facilities that are required to comply with the requirements of 19 CSR 30-86.043 and were formerly licensed as residential care facilities II on or after November 13, 1980, each floor shall be separated by construction of at least a one (1)-hour fire resistant rating. Buildings equipped with a complete sprinkler system may have a nonrated smoke separation barrier between floors. Doors between floors must be a minimum of one and three-fourths inches (1 3/4") thick and be solid core wood doors or metal doors with an equivalent fire rating. II

(F) In facilities licensed prior to November 13, 1980, and multistoried residential care facilities formerly licensed as residential care facilities I licensed on or after November 13, 1980, there shall be a smoke separation barrier between the floors of resident-use areas and any floor below the resident-use area. This shall consist of a solid core wood door or metal door with an equivalent fire rating at the top or the bottom of the stairs. There shall not be a transom above the door that would permit the passage of smoke. II

(15) Standards for Designated Separated Areas.

(D) The facility may provide a designated, separated area where residents, who are mentally incapable of negotiating a pathway to safety, reside and receive services and which is secured by limited access if the following conditions are met:

1. Dining rooms, living rooms, activity rooms, and other such common areas shall be provided within the designated, separated area. The total area for common areas within the designated, separated area shall be equal to at least forty (40) square feet per resident; II/III

2. Doors separating the designated, separated area from the remainder of the facility or building shall not be equipped with locks that require a key to open; I/II

3. If locking devices are used on exit doors egressing the facility or on doors accessing the designated, separated area, delayed egress magnetic locks shall be used. These delayed egress devices shall comply with the following:

A. The lock must unlock when the fire alarm is activated;

B. The lock must unlock when the power fails;

C. The lock must unlock within thirty (30) seconds after the release device has been pushed for at least three (3) seconds, and an alarm must sound adjacent to the door;

D. The lock must be manually reset and cannot automatically reset; and

E. A sign shall be posted on the door that reads: PUSH UNTIL ALARM SOUNDS, DOOR CAN BE OPENED IN 30 SECONDS. I/II

4. The delayed egress magnetic locks may also be released by a key pad located adjacent to the door for routine use by staff. I/II

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 86—Residential Care Facilities and Assisted Living Facilities

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services and under sections 198.005 and 198.073, RSMo Supp. 2006, and 198.076, RSMo 2000, the department amends a rule as follows:

19 CSR 30-86.032 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 2, 2006 (31 MoReg 1509–1513). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The department received fifty-four (54) comments on the proposed amendment.

COMMENT: Denise Clemonds, CEO for Missouri Association of Homes for the Aging (MoAHA);
Marshal Cope, Executive Director for New Florence Care Center;
Elliot Planells of St. Andrews Management Services;
Susan McClenahan, Executive Director for The Sarah Community;
Joan Devine, Clinical Services Director for St. Andrews Management Services;
Christopher Wiltse, Anna House Administrator;
Julie Klein, Mispah Manor Administrator;
Charlotte Lehmann, Executive Director for Cape Albeon; and
Tyler Troutman, Executive Director for Brooking Park commented that the department's intent in deleting respite care provisions from section (3) is unclear. If the intent is to eliminate respite care in assisted living facilities, Ms. Clemonds and listed associates of MoAHA disagree strongly. Ms. Clemonds and listed associates of MoAHA see no reason to change the current regulations for a program that is working very well. They currently provide this wonderful service, making it possible for some frail Missourians to remain in their own home longer while giving family members or other in-home caregivers the help they need.
RESPONSE: The department realizes respite care programs provide needed services to communities. It is not the intent of the department to prohibit facilities from providing respite care. Respite care is a short-term admission to the facility and not an additional business. Section (3) provides requirements regarding operating additional businesses within a long-term care facility and should not include respite care. No changes have been made to the rule as a result of this comment.

COMMENT: Ms. Clemonds and listed associates of MoAHA commented that the requirement of section (7) that requires all toilet and bathing areas, without regard to resident need, have grab bars and handrails would create an unnecessary expense. This expense would either be passed on to residents or would take from available resources that promote a better quality of life for residents. While many residents of assisted living facilities will need these safety features, other residents may be quite capable physically but have mental limitations or illnesses that cause them to reside in an assisted living facility. Ms. Clemonds and listed associates of MoAHA suggested this requirement be more targeted to those who need this type of assistance.
RESPONSE: Residents in assisted living facilities have varying degrees of functional abilities and may receive a range of services throughout their life span, including licensed hospice end-of-life care. While some residents may not need the assistance of handrails and grab bars at the time of admission, due to health status changes they may need this type of assistance at a later date. All residential care facilities I and II that were licensed after November 13, 1980 were already required to install handrails in all toilet areas and grab bars in all bathing areas. The vast majority of assisted living facilities were licensed after November 13, 1980 and therefore were already required to have handrails in all toilet areas and grab bars in all bathing areas. The department recognizes that there will be some expense for retrofitting some facilities, but feels it is important to have handrails and grab bars for support, safety and increased independence available to all residents who live in assisted living facilities. No changes have been made to the rule as a result of this comment.

COMMENT: Jorgen Schlemeirer, on behalf of Missouri Assisted Living Association (MALA);
Connie McClain, Marketing and Management for Lone Pine Residential Care, Ironton Residential Care, Maple Ridge Residential Care, South Haven Residential Care and Dent County Residential Care;
Shelly Long, Office Secretary, Lone Pine Residential Care;
Patty Anderson, Office Manger of Lone Pine Residential Care;
Bridgett Madden, Assistant Manager of Lone Pine Residential Care;
Sheri Pratt, Manager of Lone Pine Residential Care;
Jill Moise, Manager of Ironton Residential Care;
Dawn Gainer, Manager of Maple Ridge Residential Care;
Lisa Hedrick, Manager of Dent County Residential Care;
Wilma Davis, Administrator of South Haven Residential Care;
Dave Thomas, President, Thomas Marketing, Inc.;
Pam Thomas, R.N., Administrator, Thomas Management, Inc.;
Sharron K. Davis-Buckner, Administrator of Loving Care Home;
Cynthia Skidmore, Administrator of Autumn Place Residential Care of Joplin;
Karen Price, Owner of Dove Senior Citizen Home;
Phillip O. Farley, Owner of Sunnyhills Residential Care Facility;
Tom Walker, Administrator of Superior Park;
Frank Mosby, Administrator of Sabbath Manor;
Jill Hieronymus, Owner of Royal Oaks Residence;
Roswitha Long, Administrator of Countryside Care Center;
Peggy Keith, Administrator of Parkwood Meadows Assisted Living;
Tammy Smith, Director of Gasconade Terrace Retirement Center;
Ralene E. Davis, Owner/Manager of Guardian Angel RCF;
Bob Adams, Administrator of Walnut Street Residential Care and of The Colonial Home;
Joanna Mooney, Administrator of Cedars of Liberty and representing Lucy Webb, Owner;
Tricia Mosbacher, Regional Director of Operations Americare;
Linda Atchley, Operator of Colonial Manor LLC;
Teresa Compton, Administrator of Maple Crest Manor, Frederick Street Manors I & II;
Ronald Conway, Administrator of Colonial Retirement Center, Inc.;
Michael Long, Owner of Cedar Ridge Care Center;
Donna Quimby-Edwards, Owner of Century Pines Assisted Living;
JoAne Pate; Director of Nursing for Arana Manor and Silver Spur;
Bruce Harris, Administrator/Owner/Operator of Harris Care Centers;
Lisa Harris, President/Owner/Operator of Harris Care Centers;
Jeanette McCamis, Administraor/Owner of Wood Oaks, Inc. and Autumn Woods, Inc.;
Eric F. Fink, Administrator of Whispering Oaks Health Care Center, Inc.;
Jean Summers, Vice President of Operations for Americare;
Darren L. Redd, Vice President of Blue Castle of the Ozarks, Inc.;
Gary Boggs, Owner of Lakeshores Residential Care Facility;
Sandra Rutherford, Administrator of Lakeshores Residential Care Facility; and
Ali Chaudhry, Owner/Operator of Sabbath Manor, Country and Fontainbleu commented that the provisions of section (7) require all assisted living facilities to have handrails and grab bars affixed in all toilet and bathing areas. This is not required by statute and in fact is opposite of the intent of the assisted living facility legislation for a non-institutional setting for residents and individualized plans of care. All residents in facilities licensed under 19 CSR 30-86.047, need no more than minimal assistance, and many need no physical assistance. Assisted living facilities care for many mentally impaired residents who do not need the assistance of handrails and grab bars. Handrails and grab bars are very expensive to install and "one size fits all" policy is arbitrary in and of itself and is contrary to the goal of assisted living facility legislation. Mr. Schlemeirer and the listed associates of MALA suggested leaving the requirement to only those residents who require use of handrails and grab bars.
RESPONSE: Please refer to the previous response. No changes have been made to the rule as a result of this comment.

COMMENT: Bruce Hillis, Vice President of RH Montgomery Properties, Inc. commented that section (7) should read: "Newly licensed facilities with toilets and bathing areas serving residents, whose written contracts specify mechanical assistance for their toilet and bath area, shall provide such mechanical assistance." The requirement of the rule as proposed assumes a need not in evidence and its requirement is unrelated to the actual needs or wishes of any resident that may be admitted or retained by an assisted living facility.
RESPONSE: Please refer to the above response. No changes have been made to the rule as a result of this comment.

COMMENT: Charlie Schott, Executive Director of Good Shepard Nursing Home District commented that he is not certain of the intent in deleting respite care provisions from section (3). He hopes it was an oversight and will be added back to the regulations for assisted living and residential care facilities.
RESPONSE: Please refer to the previous response to the same comment. No changes have been made to the rule as a result of this comment.

COMMENT: A department staff member commented that paragraph (1)(C)7. is unclear and grammatically incorrect.
RESPONSE: The "; and" at the end of paragraph 7. is used to link subsections (A)–(D). No changes have been made to this rule as a result of this comment.

COMMENT: A department staff member commented that section (35) does not address a facility that elects to have its license upgraded from a residential care facility to an assisted living facility.
RESPONSE AND EXPLANATION OF CHANGE: The department agrees and has revised section (35) to clarify that assisted living facilities formerly licensed as residential care facilities shall be more home-like than institutional with respect to construction and physical plant standards.

19 CSR 30-86.032 Physical Plant Requirements for Residential Care Facilities and Assisted Living Facilities

(35) Home-Like Requirements with Respect to Construction and Physical Plant Standards.

(A) Any assisted living facility formerly licensed as a residential care facility shall be more home-like than institutional with respect to construction and physical plant standards. II

(B) Any assisted living facility licensed as a residential care facility II prior to August 28, 2006, shall qualify as being more home-like than institutional with respect to construction and physical plant standards. II

(C) Any assisted living facility that is built or has plans approved on or after August 28, 2006, shall be more home-like than institutional with respect to construction and physical plant standards. II

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 86—Residential Care Facilities and Assisted Living Facilities

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services and under sections 198.005, 198.006 and 198.076, RSMo Supp. 2006, the department amends a rule as follows:

19 CSR 30-86.042 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 2, 2006 (31 MoReg 1514–1525). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The department received four hundred forty-two (442) comments on the proposed amendment.

EXPLANATION OF ADDITIONAL CHANGES: Based on comments made at the January 17, 2007 and January 24, 2007, meetings of the Joint Committee on Administrative Rules (JCAR) regarding the proposed amendment filed with JCAR on December 29, 2006, the department is changing subsection (11)(D) to modify the requirements for ensuring that individuals contracted for professional services are monitored by facility staff while in the facility to ensure the safety of all residents when the facility cannot conduct a criminal background check.

EXPLANATION OF ADDITIONAL CHANGES: Based on comments made at the January 17, 2007 and January 24, 2007, meetings of the Joint Committee on Administrative Rules (JCAR) regarding the proposed amendment filed with JCAR on December 29, 2006, the department is changing subsection (34)(A) to modify the requirements related to services and treatments for residents who exhibit mental and psychosocial adjustment difficulty(ies).

EXPLANATION OF ADDITIONAL CHANGES: Based on comments made at the January 17, 2007 and January 24, 2007, meetings of the Joint Committee on Administrative Rules (JCAR) regarding the proposed amendment filed with JCAR on December 29, 2006, the department is changing subsection (34)(B) to modify the requirements for specialized rehabilitative services for residents with mental illness or mental retardation.

EXPLANATION OF ADDITIONAL CHANGES: Based on comments made at the January 17, 2007 and January 24, 2007, meetings of the Joint Committee on Administrative Rules (JCAR) regarding the proposed amendment, the department is changing the requirements in section (41) to mirror the statutory language.

EXPLANATION OF ADDITIONAL CHANGES: Based on comments made at the January 17, 2007 and January 24, 2007, meetings of the Joint Committee on Administrative Rules (JCAR) regarding the proposed amendment filed with JCAR on December 29, 2006, the department is changing the requirements in subsection (62)(B) to mirror the statutory language.

COMMENT: Jorgen Schlemeirer, on behalf of Missouri Assisted Living Association (MALA);
Connie McClain, Marketing and Management for Lone Pine Residential Care, Ironton Residential Care, Maple Ridge Residential Care, South Haven Residential Care and Dent County Residential Care;
Shelly Long, Office Secretary, Lone Pine Residential Care;
Patty Anderson, Office Manger of Lone Pine Residential Care;
Bridgett Madden, Assistant Manager of Lone Pine Residential Care;
Sheri Pratt, Manager of Lone Pine Residential Care;
Jill Moise, Manager of Ironton Residential Care;
Dawn Gainer, Manager of Maple Ridge Residential Care;
Lisa Hedrick, Manager of Dent County Residential Care;
Wilma Davis, Administrator of South Haven Residential Care;
Dave Thomas, President, Thomas Marketing, Inc.;
Pam Thomas, R.N., Administrator, Thomas Management, Inc.;
Sharron K. Davis-Buckner, Administrator of Loving Care Home;
Cynthia Skidmore, Administrator of Autumn Place Residential Care of Joplin;
Karen Price, Owner of Dove Senior Citizen Home;

Phillip O. Farley, Owner of Sunnyhills Residential Care Facility;
Tom Walker, Administrator of Superior Park;
Frank Mosby, Administrator of Sabbath Manor;
Jill Hieronymus, Owner of Royal Oaks Residence;
Roswitha Long, Administrator of Countryside Care Center;
Peggy Keith, Administrator of Parkwood Meadows Assisted Living;
Tammy Smith, Director of Gasconade Terrace Retirement Center;
Ralene E. Davis, Owner/Manager of Guardian Angel RCF;
Bob Adams, Administrator of Walnut Street Residential Care and of The Colonial Home;
Joanna Mooney, Administrator of Cedars of Liberty and representing Lucy Webb, Owner;
Tricia Mosbacher, Regional Director of Operations Americare;
Linda Atchley, Operator of Colonial Manor LLC;
Teresa Compton, Administrator of Maple Crest Manor, Frederick Street Manors I & II;
Ronald Conway, Administrator of Colonial Retirement Center, Inc.;
Michael Long, Owner of Cedar Ridge Care Center;
Donna Quimby-Edwards, Owner of Century Pines Assisted Living;
JoAne Pate; Director of Nursing for Arana Manor and Silver Spur;
Bruce Harris, Administrator/Owner/Operator of Harris Care Centers;
Lisa Harris, President/Owner/Operator of Harris Care Centers;
Jeanette McCamis, Administrator/Owner of Wood Oaks, Inc. and Autumn Woods, Inc.;
Eric F. Fink, Administrator of Whispering Oaks Health Care Center, Inc.;
Jean Summers, Vice President of Operations for Americare;
Darren L. Redd, Vice President of Blue Castle of the Ozarks, Inc.;
Gary Boggs, Owner of Lakeshores Residential Care Facility;
Sandra Rutherford, Administrator of Lakeshores Residential Care Facility;
Bruce Hillis, Vice President of RH Montgomery Properties, Inc.;
Ali Chaudhry, Owner/Operator of Sabbath Manor, Country and Fontainbleu;
Michelle Redd, Administrator of Blue Castle of the Ozarks, Inc.;
Virginia Mincks, LPN, Blue Castle of the Ozarks, Inc.;
Lanora Portefield, Director of Nursing at Bolivar Manor House; and
Michele Vinson, Administrator of Bolivar Manor House, recommend the second sentence of section (10) be revised to say ". . . shall [work] be employed by or volunteer in the facility." Eliminate the remainder of that sentence and paragraph. This is based on 660.315, RSMo subsection (12), which states, "No person, corporation, or association who received the employee disqualification list under subsection (11) of this section shall knowingly employ any person who is on the Employee Disqualification List (EDL)." MALA and listed associates commented that adding the term, "work" goes beyond the statutory authority of the department.

RESPONSE: The department interprets the term "employ" in section 660.315, RSMo to include paid and unpaid persons who perform work in the facility. Checking the EDL is a screening process that identifies individuals who are a potential danger to the health and welfare of residents. The intent of section (10) is to ensure that persons who are on the EDL are not allowed to have contact with residents. Therefore, the provisions do not limit the screening process to employees, and include volunteers who may have contact with residents. No changes have been made to the rule as a result of this comment.

COMMENT: MALA and listed associates commented that subsection (11)(D) should be removed as it is unrealistic with which to comply. If workers, such as plumbers and HVAC workers, need to be screened, then require their employer to be responsible for whom they dispatch to long-term care (LTC) facilities.

RESPONSE: The department interprets the statutory term "employed" to include persons who perform work, paid or unpaid, in the facility. Additionally, this regulation allows the facility the option of accompanying the repair person in lieu of requiring a criminal background check in order to ensure the safety of residents. No changes have been made to the rule as a result of this comment.

COMMENT: MALA and listed associates commented that section (17) refers to 19 CSR 20-20.010 through 19 CSR 20-20.100. The regulations are not applicable to long-term care facilities because those regulations apply to hospitals and other non-long-term care facilities and it is impossible to individually determine which the department deems applicable. We believe the department should delete this section and promulgate a rule applicable to long-term care facilities so we can then comment on applicable rules.

RESPONSE: Sections 192.138 and 192.139, RSMo require medical facilities and nursing homes to report contagious or infectious diseases. 19 CSR 20-20.010(22) defines "institution" to include nursing homes. Facilities should already be reporting pursuant to these regulations. No change has been made to the rule as a result of this comment.

COMMENT: MALA and listed associates commented that section (32) should be a Department of Mental Health (DMH) rule, as they have the legal responsibility to provide this information. We do not have the ability to force them to "provide" or "update" their individual habilitation plans. Suggest "on file as prepared and provided by. . . ." Leave as a Class III.

RESPONSE: The requirement addresses the facility's responsibility to have the current individual treatment plan (ITP) and individual habilitation plan (IHP) on file. This means that facilities will be responsible for requesting the ITP and IHP from DMH and following up on their requests. However, this provision does not require the facility to provide an ITP or IHP if the plan has not been prepared by DMH. The department believes the ITP and IHP are an integral part of providing healthcare oversight for all residents and their care. The classification has been upgraded due to the direct impact the ITP or IHP has on care. No changes have been made to the rule as a result of this comment.

COMMENT: MALA and listed associates commented that subsections (34)(A) and (B) are two (2) of many examples where the department has designated that facility as either the caregiver, which is in conflict with state statute as the facility does not have within its scope of requirements to provide medical/diagnostic services, nor case management services. Furthermore with respect to (A) and (B) above, the Department of Mental Health (DMH) contracts separately with DMH administrative agents to provide these services to residents in our facilities. The statute (198.073.4) specifically states what an assisted living facility (ALF) is required to provide, one of which states, ". . . services to meet the need of the resident as documented in a written contract signed by the resident, or legal representative of the resident."

RESPONSE: The rule does not conflict with section 198.073.4, RSMo, as amended by CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006), because the requirements described by the commenter apply to assisted living facilities and the requirements of 19 CSR 30-86.042 apply to residential care facilities. The rule clearly states, "the facility must ensure the required services are provided." This does not require the facility to provide medical, diagnostic or case management services. The intent of the regulation is for the facility to actively participate and oversee all aspects of the resident's care, including the services provided through DMH contracts with administrative agents. The requirements in 19 CSR 30-86.042(34)(A) and (B) are within the facility's scope of providing healthcare oversight for residents. No changes have been made to the rule as a result of this comment. However, changes have been made as indicated in the "Explanation of Additional Changes" for this section.

COMMENT: MALA and listed associates commented that section (41) is arbitrary and capricious as to create such substantial inequity

as to be unreasonably burdensome on persons affected. What is a "may potentially pose a threat of significant in condition?" We know what "significant change" means and it is too broad, now anything that may potentially pose a threat of a significant change will require the facility to initiate a string of administrative procedures. This rule was filed over a year ago and when commenting on this section during the comment period, the response provided by the department to our comments stated, this section "requires that the facility use reasonable judgment as to behaviors, which may potentially pose a threat. If a resident displays threatening behavior(s) toward him/herself or others, the facility should not wait until someone is harmed to notify a guardian or placement authority (which may be a parole officer, court or mental health provider, etc.)." By the fact that the department uses "displays threatening," to describe "may potentially pose" demonstrates our point. The department by their response believes "displays threatening," is synonymous with "may potentially pose a threat."
RESPONSE: Section (41) requires facilities to use reasonable judgment as to behaviors that may potentially pose a threat. If a resident displays threatening behavior(s) toward him/herself or others, the facility should not wait until someone is harmed to notify a guardian or placement authority (which may be a parole officer, court or mental health provider, etc.). It is the department's position that exercising such judgment is part of providing protective oversight and that section 198.076, RSMo gives the department the authority to establish such a rule concerning the "health and welfare of residents" in residential care facilities. No change has been made to the rule as a result of this comment. However, changes have been made as indicated in the "Explanation of Additional Changes" for this section.

COMMENT: MALA and listed associates commented that subsection (62)(B) requires the facility to record behavior that poses or has posed or could potentially result in injuries. The required documentation for every scenario outlined in this rule is substantial. Documenting accidents that potentially could result in injury, but do not result in injury, would include circumstances such as a resident bumping into another resident, a chair, or a wall. Each of these could have resulted in an injury, but did not. This happens frequently. This is a rule with which facilities cannot comply.
RESPONSE: This provision requires the facility to use reasonable judgment in determining the events and scenarios that should be documented. Documentation is an important part of the process of identifying contributing factors and implementing an effective approach. For example, documentation that shows recurrent incidents of a resident bumping into another resident, chair or wall is an indication that staff should assess and monitor the resident's environment, health status and evaluate the need for assistive devices. No changes have been made to the rule as a result of this comment. However, changes have been made as indicated in the "Explanation of Additional Changes" for this section.

COMMENT: A department staff member commented that the word "or" should be "unless" in paragraph (53)(A)2. the class violation should be added to subsection (B) and the sentence in subsection (C) is unclear.
RESPONSE AND EXPLANATION OF CHANGE: The department has amended section (53) by replacing the word "or" with "unless," adding the omitted class violation and clarifying that the facility may access screenings and immunizations through outside sources with the physician's approval.

COMMENT: Denise Clemonds, CEO for Missouri Association of Homes for the Aging (MoAHA):
Marshal Cope, Executive Director for New Florence Care Center;
Elliot Planells of St. Andrews Management Services;
Susan McClenahan, Executive Director for The Sarah Community;
Joan Devine, Clinical Services Director for St. Andrews Management Services;
Christopher Wiltse, Anna House Administrator;
Julie Klein, Mispah Manor Administrator;
Charlotte Lehmann, Executive Director for Cape Albeon; and
Tyler Troutman, Executive Director for Brooking Park, commented that the term, "work" in section (10) is so broad as to be unenforceable, and we ask that you only apply it to employees and volunteers as defined by the proposed rule. "Work" is not defined, and could include supply salespersons coming to the facility and any other number of people who may have occasion to enter a facility for a brief time in the course of their employment. Furthermore, the statutory authority of the department only applies to employees under 660.315 RSMo, subsection (12).
RESPONSE: The department interprets the term "employ" in section 660.315, RSMo to include paid and unpaid persons who perform work in the facility. Checking the EDL is a screening process that identifies individuals who are a potential danger to the health and welfare of residents. The intent of section (10) is to ensure that persons who are on the EDL are not allowed to have contact with residents. Therefore, the provisions do not limit the screening process to employees, and include volunteers who may have contact with residents. No changes have been made to the rule as a result of this comment.

COMMENT: MoAHA and listed associates commented that subsection (11)(D) requiring criminal background checks for plumbers, etc. is unworkable. When the sewer is backed up, the air conditioning breaks down in the middle of July, or freezers and coolers break down in the dietary section, the health, safety and comfort of our residents requires immediate action. The risk to their health and safety is far greater if repairs wait until background checks are made or until staff can take time from caring for residents to simply watch repair contractors do their work. This provision needs to be deleted.
RESPONSE: The rule allows the facility the option of accompanying the repair person in lieu of requiring a criminal background check in order to ensure the safety of residents. Thus, facilities are not required to delay repairs until background checks are completed. No changes have been made to the rule as a result of this comment. However, changes have been made as indicated in the "Explanation of Additional Changes" for this section.

COMMENT: MoAHA and listed associates commented that section (17) requires clarification and recommended that immediately after the word "known" in this portion of the rule the department add the words "to the administrator or manager." It obviously would be impossible for the administrator or manager to be responsible for preventing exposure to residents of communicable diseases of employees unless the administrator/manager is made aware of the disease.
RESPONSE: The suggested change emphasizes the importance of whether or not the administrator or manager is aware of the communicable disease. This is not the intent of the regulation. The intent of the regulation is to prevent an employee known to be diagnosed with a communicable disease from exposing residents to the disease. No changes have been made to the rule as a result of this comment.

COMMENT: MoAHA and listed associates commented that the hours of training required by section (20) should be revised, with one (1) hour of dementia training required during orientation and an additional two (2) hours training required at any time during the first year of employment. The orientation training could be limited to the basic issues of communicating with dementia resident and behavior management. After working with dementia residents for a time, the training in dealing with families and promoting independence will have more meaning to the employee. With high staff turnover rates, this will also be more efficient, as less hours will be spent training new hires that may be gone in a few days or weeks.
RESPONSE: Thorough orientation is needed upon hiring to ensure

employees have the necessary skills to provide care for residents with dementia. The suggested amount of time is not sufficient to learn the various complex issues involved in providing this care. No changes have been made to the rule as a result of this comment.

COMMENT: MoAHA and listed associates commented that section (28) should be clarified to include going from one smoke section to another within the facility, going to an area of refuge in the facility, or going out of the facility. The five (5)-minute time allotted is brief, but with those clarifications it would strike a good balance for resident safety and resident choice in where to make their home.
RESPONSE AND EXPLANATION OF CHANGE: The department agrees that the clarification is necessary to have a more clear understanding of the meaning of "evacuate the facility." Therefore, the definition was added as subsection (1)(C), and section (28) has been revised to include the reference to the definition.

COMMENT: MoAHA and listed associates commented that the requirements for subsection (53)(A) for a facility to offer residents flu shots seem to be overdone when seniors are encouraged by public health agencies to just drop by and get a shot. MoAHA and listed associates suggest deleting the proposed language and inserting: The facility may develop a policy for ensuring residents have the opportunity for assessment for receiving influenza and pneumococcal immunizations.
RESPONSE AND EXPLANATION OF CHANGE: The word "may" means the policy development is optional. This is not the intent of the regulation. However, the department revised section (53) for clarity.

COMMENT: MoAHA and listed associates commented that the fiscal note on this rule doesn't include the costs of paying employees for hours spent in training. If employees are in classroom training, they are not available to assist residents. That is a significant cost factor.
RESPONSE AND EXPLANATION OF CHANGE: The department has revised the private entity fiscal note to address the situation. The department has added the revised private cost to this order and has revised the private entity fiscal note filed with this order of rulemaking.

COMMENT: Barbara Miltenberger of Husch & Eppenberger, LLC, on behalf of Missouri Health Care Association (MHCA): Ms. Miltenberger commented that section (10) defines volunteers and excludes certain volunteers from criminal background checks. A volunteer is defined as an unpaid individual who is providing a direct care service to the facility and must have a criminal background check unless excluded. Family members are not excluded from the criminal background checks although they frequently provide services, which would meet the definition of a volunteer, like feeding their loved ones. The MHCA believes the proposed regulation should specifically exclude family members.
RESPONSE: This paragraph refers to Employee Disqualification (EDL) checks, not criminal background checks. Any person meeting the definition of a volunteer is required to be checked against the EDL. No changes have been made to the rule as a result of this comment.

COMMENT: Norma J. Collins, Associate State Director of AARP, on behalf of AARP commented that because many assisted living residents have or may develop dementia, understanding of dementia should be added to the topics included in section (19) in orientation for all new employees in all assisted living facilities. This could be done by changing subsection (19)(I) from "instruction regarding working with residents with mental illness" to "instruction regarding working with residents with mental illness and dementia."
RESPONSE: The requirements for instructions regarding working with residents with dementia are already addressed in section (20). No changes have been made to the rule as a result of this comment.

COMMENT: Susan McCann, DHSS, Bureau of Narcotics and Dangerous Drugs (BNDD) commented that in section (44) the word "unsealed" was not used in previous drafts and should be deleted from section (44). All medications brought to the facility by the resident should be examined and approved before use. Even sealed medication packages could be expired, damaged, unsanitary or have other evidence of being unsuitable (e.g., faded labels or faded color on tablets could indicate excess exposure to sunlight and degradation, liquids could have particulate matter etc.).
RESPONSE: The department believes requiring every medication brought in to the facility to be examined would be potentially invasive to the individual. The department will leave section (44) as written but will be open to more feedback in the future. No changes have been made to the rule as a result of this comment.

COMMENT: Ms. McCann commented that the word "or" should be "unless" in paragraph (53)(A)2.
RESPONSE AND EXPLANATION OF CHANGE: The department agrees with this comment and has revised paragraph (53)(A)2. inserting the word, "unless" and further clarified the paragraph.

COMMENT: Ms. McCann commented regarding subsection (53)(C), should the word "with" be deleted from the phrase ". . . with access."
RESPONSE AND EXPLANATION OF CHANGE: The department agrees that the word "with" was out of place and has revised subsection (53)(C) for clarity.

COMMENT: Ms. McCann commented in section (54) "No stock supply of prescription medication may be kept in the facility" from previously deleted section (52) should be retained.
RESPONSE AND EXPLANATION OF CHANGE: The department has revised section (54) to replace the deleted text.

COMMENT: Ms. McCann commented subsection (57)(C) should be deleted as no stock supplies are maintained and no registration will be issued.
RESPONSE AND EXPLANATION OF CHANGE: The department has deleted subsection (57)(C) since the reference to stock supplies of prescription medications is not applicable to facilities that must comply with 19 CSR 30-86.042.

COMMENT: Ms. McCann commented that in subsection (60)(C) the reference to discharge medications should be in section (49) rather than (48).
RESPONSE AND EXPLANATION OF CHANGE: The department has corrected the technical error by revising subsection (60)(C) to reference section (49).

COMMENT: Ms. McCann commented that in subsection (62)(C) the phrase "except as allowed by section (51) of this rule" should be deleted, consistent with the change made for proposed rule 19 CSR 30-86.047(59)(C). Section (51) does not address orders. Section (52) addresses orders but makes no exception for signing. Section (53) allows administration based on physician approved facility policy (comparable to a standing order/protocol concept), and does not require an individual order. The physician authorizes administration to any applicable residents in this special circumstance through approval of the policy.
RESPONSE AND EXPLANATION OF CHANGE: The rule is unclear because the reference to section (51) is incorrect. The department has amended section (62)(C) to correct this problem.

COMMENT: Charles Schott, Jr., Executive Director and CEO of Good Shepard Care Center District commented that in section (10) the term, "Work" is not clearly defined, and could be interpreted to be salespersons, delivery personnel and other contracted individuals that come to the facility, for a brief time in the course of providing

services. Furthermore it would be nearly impossible for us to ensure that all individuals coming into our facility have had background checks and, if not impossible, extremely costly. Mr. Schott recommended that the term "work" should be defined to apply only to individuals employed by or volunteers at the facility.
RESPONSE: The department interprets the term "employ" in section 660.315, RSMo to include paid and unpaid persons who perform work in the facility. Checking the EDL is a screening process that identifies individuals who are a potential danger to the health and welfare of residents. The intent of section (10) is to ensure that persons who are on the EDL are not allowed to have contact with residents. Therefore, the provisions do not limit the screening process to employees, and include volunteers who may have contact with residents. No changes have been made to the rule as a result of this comment.

COMMENT: Mr. Schott commented paragraph (11)(D)2. is impractical. In a rural area when facilities have a major facility problem, facilities cannot be required to ensure that every person that enters our facility has had a criminal background check. Please remove this requirement from the proposed amendment.
RESPONSE: The rule allows the facility the option of accompanying the repairperson in lieu of requiring a criminal background check in order to ensure the safety of residents. Thus, facilities are not required to delay repairs until background checks are completed. No changes have been made to the rule as a result of this comment. However, changes have been made as indicated in the "Explanation of Additional Changes."

COMMENT: Mr. Schott commented in section (20) that the hours of training be revised, with one (1) hour of dementia training required during orientation and an additional two (2) hours training required during the first year of employment. Limit the orientation training to the basic issues of communicating with dementia residents and behavior management. After staff members have worked with dementia residents for a time, the training in dealing with families and promoting independence will have more meaning to the employee. Finally, it would prevent facilities from spending money and time on staff, which do not make it past the first ninety (90) days of employment, which is when facilities have their highest staff turnover rates.
RESPONSE: Thorough orientation is needed upon hiring to ensure employees have the necessary skills to provide care for residents with dementia. The suggested amount of time is not sufficient to learn the various complex issues involved in providing this care. No changes have been made to the rule as a result of this comment.

COMMENT: Mr. Schott commented section (28) requires clarification of, "negotiating a normal path to safety" to include going from one (1) smoke section to another within the facility, going to an area of refuge in the facility, or going out of the facility. The five (5)-minute time allotted is brief; however, with the requested clarifications it would be a good balance for resident safety and resident choice in where to make their home.
RESPONSE AND EXPLANATION OF CHANGE: The department agrees that the clarification is necessary to have a more clear understanding of the meaning of "evacuate the facility." Therefore, the definition was added as subsection (1)(C), and section (28) has been revised to include the reference to the definition.

COMMENT Mr. Schott commented regarding section (53) that the local health department provides flu shots to our residents, why do facilities need to have a laborious paper requirement for our facilities. Please delete the proposed language and insert: "The facility may develop a policy for ensuring residents receiving influenza and pneumoccoccal immunizations" in section (53).
RESPONSE AND EXPLANATION OF CHANGE: The word "may" means the policy development is optional. This is not the intent of the regulation. However, the department revised section (53) for clarity.

COMMENT: Stacy Tew-Lovasz, Area Director of Community Relations for Sunrise Communities commented that section (20) should be changed to two (2) hours of training on Alzheimer's care within the first ninety (90) days of employment for direct care staff and one (1) hour for all non-direct care staff in section (20).
RESPONSE: The requirements for instructions regarding working with residents with dementia are already addressed in section (20). No changes have been made to the rule as a result of this comment.

COMMENT: Bruce Hillis, Vice President for RH Montgomery Properties, Inc. commented that subparagraph (11)(A)2.D. is overly burdensome and sets a requirement far above any reasonable standard. This provision should be eliminated from the proposed rules.
RESPONSE: The rule allows the facility the option of accompanying the repairperson in lieu of requiring a criminal background check in order to ensure the safety of residents. Thus, facilities are not required to delay repairs until background checks are completed. No changes have been made to the rule as a result of this comment. However, changes have been made as indicated in the "Explanation of Additional Changes" for this section.

COMMENT: Mary Taylor Beck, a resident's family member commented regarding section (28) that the assisted living legislation did not include the five (5) minutes in the bill. This five (5)-minute rule is too restrictive. Instead of using this five (5)-minute rule to prematurely discharge assisted living residents and prematurely separating married couples, it could be revised to a reasonable amount of time based on the fire precautions available in the community. The department should require all assisted living facilities to make their steps half the size so that seniors can easily negotiate the stairs in case of an emergency.
RESPONSE: The department believes that allowing more than five (5) minutes does not provide needed safety in a fire emergency. No changes have been made to the rule as a result of this comment.

COMMENT: Carroll Rodriquez, Public Policy Director of the Missouri Coalition of Alzheimer's Association Chapters commented that section (19) outlines a list of important topics to be covered during orientation training. The rules however only require a minimum of one (1) hour of training to cover the comprehensive list of topics. Additionally, no annual in-service training is required for this level of care.
The following changes should be made to the rule addressing, dementia training:
•Strike the required hour(s) for orientation training and replace with language that facilities shall have a written plan for providing orientation training to new employees that includes at a minimum, training on the topics outlined in this rule. Orientation training should be completed prior to the first of direct client contact.
•Add language that requires all annual in-service training that includes specific topics, including those outlined for orientation training. Consideration should be given to requiring ten (10) hours of annual in-service training, the same amount currently required in in-home service providers.
•Add to the list of training topics, understanding the common characteristics and conditions of the resident population served and understanding dementia.
RESPONSE: The department has added specific training requirements for dementia specific training. The department has recognized the need to require a specific number of orientation hours. This required number is a minimum requirement. Additionally, this training includes on-the-job training hours related to the special needs, care and safety of residents with dementia. No changes have been made to the rule as the result of this comment.

COMMENT: Ms. Rodriquez commented that subsection (20)8 of section 660.050, RSMo and assisted living facility legislation, (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006)), requires dementia specific training for employees involved in the care of persons with Alzheimer's disease or related dementias. The statute specifies that training be incorporated into both new employee orientation and annual in-service curricula. The proposed rule does not require annual in-service training.
The following changes should be made to the rule addressing, dementia training:
•Add language requiring annual in-service training. Consideration should be given to using the following language: Any facility that provides care to any resident having Alzheimer's disease or related dementias shall provide orientation and annual in-service training regarding the needs, care and safety of individuals with Alzheimer's disease and related dementias.
•Add language that requires all annual in-service and orientation training relating to the special needs, care and safety of residents with Alzheimer's disease and other dementias shall be conducted, presented or provided by an individual who is qualified by education, experience or knowledge in the care of individuals with Alzheimer's disease or other dementias.
RESPONSE AND EXPLANATION OF CHANGE: The department has added the statutory requirement for ongoing in-service training to subsection (20)(C).

EXPLANATION OF ADDITIONAL CHANGES: At the January 17, 2007 meeting, JCAR noted the department failed to respond to one (1) comment. In accordance with the committee's direction, the department has added this comment and responded accordingly. Jorgen Schlemeirer commented that the responsibility for signing physician orders should be the physician's responsibility and not the facility's responsibility as stated in subsection (62)(C). In response to this comment and the comments at the JCAR meetings, the department has revised subsection (62)(C) to address this issue.

19 CSR 30-86.042 Administrative, Personnel and Resident Care Requirements for New and Existing Residential Care Facilities

(1) Definitions. For the purpose of this rule, the following definitions shall apply:

(A) Department—Department of Health and Senior Services;

(B) Outbreak—an occurrence in a community or region of an illness(es) similar in nature, clearly in excess of normal expectancy and derived from a common or a propagated source; and

(C) Evacuate the facility—moving to an area of refuge or from one (1) smoke section to another or exiting the facility.

(11) Prior to allowing any person who has been hired in a full-time, part-time or temporary position to have contact with any residents the facility shall, or in the case of temporary employees hired through or contracted for an employment agency, the employment agency shall prior to sending a temporary employee to a provider:

(D) For persons for whom the facility has contracted for professional services (e.g., plumbing or air conditioning repair) that will have contact with any resident, the facility must either require a criminal background check or ensure that the individual is sufficiently monitored by facility staff while in the facility to reasonably ensure the safety of all residents. I/II

(20) In addition to the orientation training required in section (19) of this rule any facility that provides care to any resident having Alzheimer's disease or related dementia shall provide orientation training regarding mentally confused residents such as those with Alzheimer's disease and related dementias as follows:

(A) For employees providing direct care to such persons, the orientation training shall include at least three (3) hours of training including at a minimum an overview of mentally confused residents such as those having Alzheimer's disease and related dementias, communicating with persons with dementia, behavior management, promoting independence in activities of daily living, and understanding and dealing with family issues; II/III

(B) For other employees who do not provide direct care for, but may have daily contact with, such persons, the orientation training shall include at least one (1) hour of training including at a minimum an overview of mentally confused residents such as those having dementias as well as communicating with persons with dementia; and II/III

(C) For all employees involved in the care of persons with dementia, dementia-specific training shall be incorporated into ongoing in-service curricula. II/III

(28) All residents shall be physically and mentally capable of negotiating a normal path to safety unassisted or with the use of assistive devices within five (5) minutes of being alerted of the need to evacuate the facility as defined in subsection (1)(C) of this rule. I/II

(34) Requirements for facilities which admit or retain residents with mental illness or mental retardation diagnosis and residents with assaultive or disruptive behaviors:

(A) Each resident who exhibits mental and psychosocial adjustment difficulty(ies) shall receive treatment and services to address the resident's needs and behaviors as stated in the individual service plan; I/II

(B) If specialized rehabilitative services for mental illness or mental retardation are required to enable a resident to reach and to comply with the individualized service plan, the facility must ensure the required services are provided; and II

(41) In case of behaviors that present a reasonable likelihood of serious harm to himself or herself or others, serious illness, significant change in condition, injury or death, staff shall take appropriate action and shall promptly attempt to contact the individual listed in the resident's record as the legally authorized representative, designee or placement authority. The facility shall contact the attending physician or designee and notify the local coroner or medical examiner immediately upon the death of any resident of the facility prior to transferring the deceased resident to a funeral home. II/III

(53) Influenza and pneumococcal polysaccharide immunizations may be administered per physician-approved facility policy after assessment for contraindications.

(A) The facility shall develop a policy that provides recommendations and assessment parameters for the administration of such immunizations. The policy shall be approved by the facility medical director for facilities having a medical director, or by each resident's attending physician for facilities that do not have a medical director, and shall include the requirements to:

1. Provide education regarding the potential benefits and side effects of the immunization to each resident or the resident's designee or legally authorized representative; II/III

2. Offer the immunization to the resident or obtain permission from the resident's designee or legally authorized representative when it is medically indicated, unless the resident has already been immunized as recommended by the policy; II/III

3. Provide the opportunity to refuse the immunization; and II/III

4. Perform an assessment for contraindications. II/III

(B) The assessment for contraindications and documentation of the education and opportunity to refuse the immunization shall be dated and signed by the nurse performing the assessment and placed in the medical record. II/III

(C) The facility shall with the approval of each resident's physician, access screening and immunization through outside sources, such as county or city health departments, and the facility shall document in the medical record that the requirements in subsection (53)(B) were performed by outside sources. II/III

(54) Stock supplies of nonprescription medication may be kept when specific medications are approved in writing by a consulting physician, a registered nurse or a pharmacist. No stock supply of prescription medication may be kept in the facility. II/III

(57) At least every three (3) months in a residential care facility, a pharmacist or registered nurse shall review the controlled substance record keeping including reconciling the inventories of controlled substances. This shall be done at the time of the drug regimen review of each resident. All discrepancies in controlled substance records shall be reported to the administrator or manager for review and investigation. The theft or loss of controlled substances shall be reported as follows: II/III

(B) If an insignificant amount of such controlled substance is lost during lawful activities, which includes but are not limited to receiving, record keeping, access auditing, administration, destruction and returning to the pharmacy, a description of the occurrence shall be documented in writing and maintained with the facility's controlled substance records. The documentation shall include the reason for determining that the loss was insignificant. II/III

(60) Medications that are not in current use shall be disposed of as follows:

(C) Medications may be released to the resident or family upon discharge according to section (49) of this rule;

(62) The facility shall maintain a record in the facility for each resident, which shall include the following:

(B) A review monthly or more frequently, if indicated, of the resident's general condition and needs; a monthly review of medication consumption of any resident controlling his or her own medication, noting if prescription medications are being used in appropriate quantities; a daily record of administration of medication; a logging of the medication regimen review process; a monthly weight; a record of each referral of a resident for services from an outside service; and a record of any resident incidents including behaviors that present a reasonable likelihood of serious harm to himself or herself or others and accidents that potentially could result in injury or did result in injuries involving the resident; and III

(C) Any Physician's Orders. Except as allowed by section (52) of this rule, the facility shall submit to the physician written versions of any oral or telephone orders within four (4) days of the giving of the oral or telephone order. III

REVISED PRIVATE COST: The total yearly cost in the aggregate to facilities formerly licensed as Residential Care Facility I is five hundred sixty-nine thousand five hundred seventy dollars ($569,570) rather than four hundred forty-one thousand sixty-two dollars ($441,062). The total yearly cost in the aggregate is twenty-two thousand fifty-two dollars ($22,052) rather than seventeen thousand seventy-seven dollars ($17,077) for the ten (10) known facilities plus an indeterminate amount for the unknown residential care facilities, which we submitted with the original estimate.

FISCAL NOTE
PRIVATE COST

I. RULE NUMBER

Rule Number and Name:	19 CSR 30-86.042 Administrative, Personnel and Resident Care Requirements for New and Existing Residential Care Facilities
Type of Rulemaking:	Order of Rulemaking Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed amendment:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the amendment by the affected entities:
266	Facilities formerly Licensed as Residential Care Facility I	Total Yearly Cost in the Aggregate $569, 570** One-Time Cost in the Aggregate - $7,979
Ten (10) facilities that have received Residential Care Facility I CON approval plus an unknown number of new Residential Care Facilities that will be constructed	Newly Constructed Residential Care Facilities	Total Yearly Cost in the Aggregate $22.052 for the 10 known plus an indeterminate amount for the unknown One-Time Cost in the Aggregate $618 for the 10 known plus an indeterminate amount for tbe unknown

III and IV. WORKSHEET AND ASSUMPTIONS

Staff Training – This proposed amendment requires residential care facilities that provide care to residents with Alzheimer's disease or related dementia to provide three (3) hours of dementia specific training to staff providing the care. According to the Alzheimer's Association, the cost for such a class is approximately $225. Because of staff turnover, DHSS estimates each residential care facility will need three training sessions per year. DHSS estimates the total yearly training session cost for residential care facilities in the aggregate to be $179,550 ($225 cost per training x three (3) training sessions per year) x (266 facilities) with five employees attending the training. In addition to the training costs, DHSS estimates five employees will attend each three-hour training session. Facilities must compensate these employees while in training. According to a study of level I medication aide salaries conducted in 2000 by Keller & Company, LLC, the average salary of a level I medication aide was $14,289. To reach a current salary of $15,718, this number was increased by 10% to account for increases in salary the past six years ($14,289 x 1.1 =

$15,718). DHSS has added an additional amount for fringe benefits which is based on current fringe benefit rates for state employees.* DHSS estimates the total yearly staff cost for residential care facilities in the aggregate to be $128,508 ($15,718 *.4207 fringe rate) + ($15,718) / (2080 work hours per year) x (three (3) hours) x (15 staff) x (266 facilities). DHSS estimates the total yearly cost for the training sessions and staff wages while attending the training sessions in the aggregate to be $308,058 ($179,550 + $128,508).

Information obtained from the Certificate of Need Program reveals 10 facilities that have CON approval for residential care facility I. In determining the cost in the aggregate for these 10 facilities, DHSS utilized its estimate of the yearly cost of compliance for each existing facility which is $2,141 ($569,570 total yearly cost in the aggregate for existing facilities / 266 number of facilities choosing to comply with this proposed rule) plus three percent adjustment for inflation. DHSS estimates the actual costs for the 10 facilities with current CON approval for residential care facility I to be $22,052 ($2,141 cost to each facility) x (10 number of facilities with current CON approval for Residential Care Facility) x (.03 inflation adjustment) + ($21,410).

Examination of Medications – If a resident brings medications to the facility, the medications shall not be used unless a pharmacist, physician or nurse examines, identifies and determines the contents to be suitable for use. DHSS estimates each facility will require the services of a nurse, pharmacist or physician one hour per week. Based on the Office of Administration, Division of Personnel, Uniform Classification and Pay System (Revised October 1, 2005) average annual market salary for a licenses practical nurse I ($24,984). DHSS estimates the actual true new yearly cost for residential care facilities in the aggregate to be $236,021 ($24,982 x .4207 fringe rate* + $24,982 /2080 hours in a work year x 1 hour x 52 weeks per year x 266 facilities).

Locked Compartment for Controlled Substances – Residential care facilities must store schedule II controlled substances in a locked compartment separate from other medications. Based on inspections conducted by DHSS, DHSS estimates fifty percent of facilities already meet this proposed requirement, therefore approximately 133 facilities would incur a cost. According to MMF Industries, a lock-down security box costs $59.99. DHSS estimates the actual true new yearly cost for residential care facilities in the aggregate to be - $7,979 ($59.99 cost for locked compartment x 133 facilities).

*The state of Missouri fringe benefit rate for fiscal year 2007 is 42.07 percent which includes retirement contribution, medical insurance, basic life insurance, long-term disability and Missouri deferred compensation. This rate was used throughout the fiscal note. Facilities can use this formula revised with their own figures to determine the cost to their facility.

** On July 20, 2006, DHSS asked the associations representing long term care facilities to provide information regarding this fiscal note. On August 7, 2006, in a meeting discussing the proposed assisted living facility rules, DHSS again asked the long term care industry for information regarding this fiscal note. As of the date DHSS prepared the fiscal note, the long-term care industry provided no information.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 86—Residential Care Facilities and Assisted Living Facilities

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 198.005, 198.006 and 198.073, Supp. 2006 and 198.076, RSMo 2000, the department adopts a rule as follows:

19 CSR 30-86.043 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 2, 2006 (31 MoReg 1526–1535). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The department received four (4) comments on the proposed rule.

COMMENT: Carroll Rodriquez, Public Policy Director of the Missouri Coalition of Alzheimer's Association Chapters, commented that subsection 8 of section 660.050, RSMo and assisted living facility legislation, (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006)), requires dementia specific training for employees involved in the care of persons with Alzheimer's disease or related dementias. The statute specifies that training be incorporated into both new employee orientation and annual in-service curricula. The proposed rule does not require annual in-service training.

The Coalition recommended that the following changes be made to the rule addressing, dementia training:
•Add dementia training language for facilities complying with residential care facility II standards. The language should be the same as that found in either 19 CSR 30-86.042(20) or 19 CSR 30-86.047 (64).
•Add language requiring annual in-service training. Consideration should be given to using the following language: Any facility that provides care to any resident having Alzheimer's disease or related dementias shall provide orientation and annual in-service training regarding the needs, care and safety of individuals with Alzheimer's disease and related dementias.
•Add language that requires all annual in-service and orientation training relating to the special needs, care and safety of residents with Alzheimer's disease and other dementias shall be conducted, presented or provided by an individual who is qualified by education, experience or knowledge in the care of individuals with Alzheimer's disease or other dementias.
RESPONSE: This rule contains the administrative, personnel and resident care requirements that were in effect as of August 27, 2006 for facilities licensed as a residential care facility II. Section 198.073.3, RSMo (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006)) prohibits the department from amending the administrative, personnel and resident care requirements for facilities licensed as a residential care facility II on August 27, 2006. However, these facilities must also comply with the statutory requirements for dementia-specific training requirements of section 660.050.8, RSMo. No changes have been made to the rule as the result of this comment.

COMMENT: Carroll Rodriquez, Public Policy Director of the Missouri Coalition of Alzheimer's Association Chapters commented that the clear intent of assisted living facility (ALF) legislation is to do away with classifying facilities as residential care facility I and II, as called for in the revised section 198.006(22) (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006)) and the deletion of old section 198.006(17), RSMo. However, some interim provisions remain.

Revised section 198.006(22) (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006)) provides that a care facility, which was licensed as an RCF II immediately prior to the effective date of sections 198.073 and 198.076, RSMo 2000 and that continues to meet such requirements shall continue to receive supplemental welfare assistance payments under section 208.030, RSMo but it shall be considered an RCF II facility only for such purposes. Additionally, revised section 198.073.3 (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006)) provides that licensed RCF II facilities, which continue to meet those licensing standards shall nonetheless be licensed as an assisted living facility until such time as the average total Medicaid reimbursement for an ALF equals or exceeds forty-one dollars ($41) per day. At such time, the RCF II facilities must meet the new ALF standards.

According to information provided by the department, the Medicaid reimbursement rates now exceed forty-one dollars ($41) per day. Therefore, the Coalition believes the correct interpretation in order to reconcile those provisions would be that the former RCF II facilities must now meet the ALF requirements, but that the former RCF II facilities now meeting ALF requirements would qualify to receive section 208.030, RSMo welfare assistance payments previously given to RCF II facilities.

Although it is the Coalition's belief that former RCF II facilities must now meet ALF requirements, the Coalition also recognizes that these facilities need a realistic time frame in which to comply with the new requirements.

The Coalition recommends the following:
•19 CSR 30-86.043(1): At the end of the sentence add: The standards published at 19 CSR 30-86.047 shall apply to facilities licensed under this section at such time as the department shall determine that the daily average total reimbursement for the care of persons mentioned in section 198.073.3 (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006)), RSMo meets or exceeds the amount mentioned in such section.
•Add language that would allow RCF II facilities a grace period, to be determined by the department, that would enable a realistic time frame in which to comply with the standards outlined in 19 CSR 30-86.047.
RESPONSE: This rule contains the administrative, personnel and resident care requirements that were in effect as of August 27, 2006 for facilities licensed as a residential care facility II. It does not apply to facilities licensed as assisted living facilities. Assisted living facility legislation, section 198.073.3, RSMo (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006)) prohibits the department from amending the administrative, personnel and resident care requirements for facilities licensed as a residential care facility II on August 27, 2006. No changes have been made to the rule as the result of this comment.

COMMENT: A department staff member commented that subsection (24)(D) of this proposed rule incorrectly referred to "assisted living facility."
RESPONSE AND EXPLANATION OF CHANGE: Subsection (24)(D) will be changed to refer to "facility" rather than "assisted living facility."

COMMENT: A department staff member commented that subsection (50)(C) incorrectly stated in part "Verbal and telephone orders shall be taken only to a licensed nurse" rather than "by a licensed nurse."
RESPONSE AND EXPLANATION OF CHANGE: Subsection (50)(C) will be changed to state that verbal and telephone orders shall be taken only by a licensed nurse.

19 CSR 30-86.043 Administrative, Personnel and Resident Care Requirements for Facilities Licensed as a Residential Care Facility II on August 27, 2006 that Will Comply with Residential Care Facility II Standards

(24) Staffing.

(D) If the facility is operated in conjunction with and is immediately adjacent to and contiguous to another licensed long-term care facility and if the resident bedrooms of the facility are on the same floor as at least a portion of a licensed intermediate care or skilled nursing facility; there is an approved call system in each resident's bedroom and bathroom or a patient-controlled call system; and there is a complete fire alarm system in the facility tied into the complete fire alarm system in the other licensed facility, then the following minimum staffing for oversight and care of residents, for upkeep of the facility and for fire safety shall be one (1) staff person for every eighteen (18) residents or major fraction of residents during the day shift, one (1) person for every twenty-five (25) residents or major fraction of residents during the evening shift and one (1) person for every thirty (30) residents or major fraction of residents during the night shift. I/II

Time	Personnel	Residents
7 a.m. to 3 p.m. (Day)*	1	3–18
3 p.m. to 9 p.m. (Evening)*	1	3–25
9 p.m. to 7 a.m. (Night)*	1	3–30

*If the shift hours vary from those indicated, the hours of the shifts shall show on the work schedules of the facility and shall not be less than six (6) hours. III

(50) Medication Orders.

(C) Verbal and telephone orders shall be taken only by a licensed nurse, medication technician, level I medication aide or pharmacist and shall be immediately reduced to writing and signed by that individual. If a telephone order is given to a medication technician or level I medication aide, an initial dosage of a new prescription shall not be initiated until the order has been reviewed by telephone or in person by a licensed nurse or pharmacist. II

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 86—Residential Care Facilities and Assisted Living Facilities

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services and under sections 198.005 and 198.073, RSMo Supp. 2006, and 198.076, RSMo 2000, the department amends a rule as follows:

19 CSR 30-86.045 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 2, 2006 (31 MoReg 1536–1540). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The department received eighty-six (86) comments on the proposed amendment.

EXPLANATION OF ADDITIONAL CHANGES: Based on comments made at the January 17, 2007 and January 24, 2007, meetings of Joint Committee on Administrative Rules (JCAR) regarding the proposed amendment filed with the JCAR on December 29, 2006, the department is changing the employee instruction requirements in paragraph 3(A)8.

EXPLANATION OF ADDITIONAL CHANGES: Based on comments made at the January 17, 2007 and January 24, 2007, meetings of Joint Committee on Administrative Rules (JCAR) regarding the proposed amendment filed with the JCAR on December 29, 2006, the department is changing the staffing requirements in section (5).

COMMENT: A department staff member commented that paragraph (2)(D)5. requires clarification. Currently, paragraph (2)(D)5. reads, "The following actions required of staff are not considered to be minimal assistance." For clarity, this sentence should read, "The following actions of staff are considered to be more than minimal assistance."
RESPONSE AND EXPLANATION OF CHANGE: The department agrees that this recommended change more accurately describes the intent of this definition and has amended paragraph 19 CSR 30-86.045(2)(D)5. as recommended for clarity.

COMMENT: Denise Clemonds, CEO for Missouri Association of Homes for the Aging (MoAHA) and the following associates of MoAHA:
Marshal Cope, Executive Director for New Florence Care Center;
Elliot Planells of St. Andrews Management Services;
Susan McClenahan, Executive Director for The Sarah Community;
Joan Devine, Clinical Services Director for St. Andrews Management Services;
Christopher Wiltse, Anna House Administrator;
Julie Klein, Mispah Manor Administrator;
Charlotte Lehmann, Executive Director for Cape Albeon;
Tyler Troutman, Executive Director for Brooking Park; and
Charlie Schott, Executive Director for Good Shepherd Care Center District commented that subsection (2)(D) should recognize family members that regularly stay overnight to assist in evacuations and should not consider the family member's assistance as an intervention. Secondly, having a staff member open a door should not be considered more than minimal assistance.
RESPONSE: Subsection (2)(D) of this rule defines what minimal assistance is and does not make a distinction based on who provides the interventions. Facilities must have twenty-four (24) hour staff appropriate in skills and have an adequate number of personnel for the proper care of residents and protective oversight of residents. See 19 CSR 30-86.047(29) and (62). Family members cannot be used to exempt facilities from these requirements. No changes have been made to this rule as the result of these comments.

COMMENT: Denise Clemonds and listed associates of MoAHA commented that the language in subparagraph (3)(A)6.A. regarding the staff emergency responsibilities appears to require the individual names of staff rather than staff positions. This needs to be clarified to the position not the individual. Paragraph (3)(A)8. needs to be changed to clarify that this requirement applies only to those employees with specific responsibilities.
RESPONSE AND EXPLANATION OF CHANGE: The department agrees that the requirements for subparagraph (3)(A)6.A. need to be clarified to refer to the responsibilities of specific staff positions in an emergency specific to the individual. Additionally, paragraph (3)(A)8. requires clarification in order to show that those employees with specific responsibilities shall be instructed and informed regarding their duties and responsibilities under the resident's evacuation plan at least every two (2) months and upon any significant change in the plan. Subparagraph (3)(A)6.A. and paragraph (3)(A)8. have been revised accordingly.

COMMENT: Denise Clemonds and listed associates of MoAHA commented additionally, that reinstruction needs to occur only semi-annually or when there is a change in evacuation duties and responsibilities.
RESPONSE: The reinstruction must occur at least every two (2) months due to staff turnover and upon any significant change in the plan. No changes have been to the rule as a result of this comment.

COMMENT: Stacy Tew-Lovasz, Area Director of Community Relations for Sunrise Communities commented that subparagraph (3)(A)6.C. is an incredible expansion of the intent and regulating at too great of detail. While there should be an assessment and a plan created to meet the evacuation needs of the residents, too much detail is being dictated that may or may not be applicable. Recommend eliminating the entire section and adding: Need a clear and executable plan based on the residents' needs.
RESPONSE: In order to ensure appropriate individual evacuation of residents, the plan must evaluate the resident for his or her location within the facility and the proximity to exits and areas of refuge. Additionally, the plan must evaluate the resident, as applicable, for his or her risk of resistance, mobility, the need for additional staff support, consciousness, response to instructions, response to alarms, and fire drills. No changes have been made to the rule as a result of this comment.

COMMENT: Ms. Tew-Lovasz commented that paragraph (3)(A)8. dictating that the plan is retrained every two (2) months is incredibly onerous and will become purely a paper trail.
RESPONSE: The reinstruction must occur at least every two (2) months due to staff turnover and upon any significant change in the plan. No changes have been made to the rule as a result of this comment.

COMMENT: Ms. Tew-Lovasz commented that paragraph (3)(A)8. should require the outcome desired and not every step in the process. The facility should be able to demonstrate that staff have been trained on the evacuation plan. Change to the following: All employees shall be instructed and informed regarding their duties and responsibilities under the residents' evacuation plan.
RESPONSE AND EXPLANATION OF CHANGE: The department has clarified paragraph (3)(A)8.

COMMENT: Norma J. Collins, Associate State Director—Advocacy, AARP Missouri, commented that the proposed amendment establishes additional standards for evacuation plans for residents who need more than minimal assistance to evacuate the building. To ensure residents' safety, the rules could be strengthened by adding as recommended in AARP policy, that evacuation plans must include procedures for transporting medical records, emergency medicines and other supplies; and providing needed care outside of the facility.
RESPONSE: General requirements for evacuation plans are addressed at 19 CSR 30-86.047(29)(C), which requires assisted living facilities to have "a written plan for the protection of all residents in the event of a disaster. . . ." The department would expect such written plans to include the procedures listed by the commenter. No changes have been made to the rule as a result of this comment.

COMMENT: AARP Missouri recommended that emergency plans be on file with the state.
RESPONSE: The department does not have statutory authority to make this change. No change has been made to the rule as a result of this comment.

COMMENT: AARP Missouri recommended that emergency plans should be given to family members upon admission to the facility as well as annually following state approval.
RESPONSE: Emergency plans are required to be posted. No change has been made to the rule as a result of this comment.

COMMENT: AARP Missouri recommended language that facility administrators be held accountable for properly following these plans and any emergency orders issued by the federal or state government or local authorities.
RESPONSE: The department does not agree this change is necessary. This is covered under the duties of the administrator in 19 CSR 30-86.047. No change has been made to the rule as a result of this comment.

COMMENT: Jorgen Schlemeirer, on behalf of Missouri Assisted Living Association (MALA) and the following associates of MALA;
Connie McClain, Marketing/Mgmt for Lone Pine Residential Care, Ironton Residential Care, Maple Ridge Residential Care, South Haven Residential Care and Dent County Residential Care;
Shelly Long, Office Secretary, Lone Pine Residential Care;
Patty Anderson, Office Manger of Lone Pine Residential Care;
Bridgett Madden, Assistant Manager of Lone Pine Residential Care;
Sheri Pratt, Manager of Lone Pine Residential Care;
Jill Moise, Manager of Ironton Residential Care;
Dawn Gainer, Manager of Maple Ridge Residential Care;
Lisa Hedrick, Manager of Dent County Residential Care;
Wilma Davis, Administrator of South Haven Residential Care;
Dave Thomas, President, Thomas Marketing, Inc.;
Pam Thomas, R.N., Administrator, Thomas Management, Inc.;
Sharron K. Davis-Buckner, Administrator of Loving Care Home;
Cynthia Skidmore, Administrator of Autumn Place Residential Care of Joplin;
Karen Price, Owner of Dove Senior Citizen Home;
Phillip O. Farley, Owner of Sunnyhills Residential Care Facility;
Tom Walker, Administrator of Superior Park;
Frank Mosby, Administrator of Sabbath Manor;
Jill Hieronymus, Owner of Royal Oaks Residence;
Roswitha Long, Administrator of Countryside Care Center;
Peggy Keith, Administrator of Parkwood Meadows Assisted Living;
Tammy Smith, Director of Gasconade Terrace Retirement Center;
Ralene E. Davis, Owner/Manager of Guardian Angel RCF;
Bob Adams, Administrator of Walnut Street Residential Care and of The Colonial Home;
Joanna Mooney, Administrator of Cedars of Liberty and representing Lucy Webb, Owner;
Tricia Mosbacher, Regional Director of Operations Americare;
Linda Atchley, Operator of Colonial Manor LLC;
Teresa Compton, Administrator of Maple Crest Manor, Frederick Street Manors I & II;
Ronald Conway, Administrator of Colonial Retirement Center, Inc.;
Michael Long, Owner of Cedar Ridge Care Center;
Donna Quimby-Edwards, Owner of Century Pines Assisted Living;
JoAne Pate; Director of Nursing for Arana Manor and Silver Spur;
Bruce Harris, Administrator/Owner/Operator of Harris Care Centers;
Lisa Harris, President/Owner/Operator of Harris Care Centers;
Jeanette McCamis, Administrator/Owner of Wood Oaks, Inc. and Autumn Woods, Inc.;
Eric F. Fink, Administrator of Whispering Oaks Health Care Center, Inc.;
Jean Summers, Vice President of Operations for Americare;
Darren L. Redd, Vice President of Blue Castle of the Ozarks, Inc.;
Gary Boggs and Cecile Boggs, Owner of Lakeshores Residential Care Facility;
Sandra Rutherford, Administrator of Lakeshores Residential Care Facility;
Bruce Hillis, Vice President of RH Montgomery Properties, Inc.; and
Ali Chaudhry, Owner/Operator of Sabbath Manor, Country and Fontainbleu;
Michelle Redd, Administrator of Blue Castle of the Ozarks, Inc.;
Virginia Mincks, LPN, Blue Castle of the Ozarks, Inc.;

Lanora Porterfield, Director of Nursing at Bolivar Manor House; Michele Vinson, Administrator of Bolivar Manor House commented that they do not agree with paragraph (4)(A)2. MALA and listed associates believe the statute limits the two (2) smoke section partitioning only to multi-level facilities and not the first floor of a facility section 198.073.6(3).
RESPONSE: The department does not agree that assisted living facility legislation limits the two (2) smoke section partitioning only to multi-level facilities and not to the first floor of a facility. Section 198.073.6(3), RSMo (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006)) requires an automated fire door system for all facilities. An automated fire door system requires smoke sections. No changes have been made to the rule as a result of this comment.

COMMENT: Barbara L. Miltenberger of Husch & Eppenberger, LLC., on behalf of Missouri Health Care Association (MHCA), commented that section (1) of this proposed rule states this regulation contains the additional standards for assisted living facilities that choose to admit or retain any individual having a physical, cognitive, or other impairment that prevents the individual from safely evacuating the facility. The regulation omits specific requirements for training and staffing needed to care for cognitively impaired residents. None of the proposed regulations address the care needs of those who cannot exit with minimal assistance. Those issues should be addressed to protect assisted living facility residents. The additional training needs for assisted living facilities with residents requiring more than minimal assistance should be included in this regulation rather than in 19 CSR 30-86.047.
RESPONSE: The department does not agree that the additional training needs for assisted living facilities with residents requiring more than minimal assistance should be included in this regulation rather than in 19 CSR 30-86.047. The requirements in this rule are in addition to those in 19 CSR 30-86.047. The training requirements have been placed in 19 CSR 30-86.047, since those assisted living facilities may have residents having some cognitive impairment and/or needing some assistance with transfers. Additionally, 19 CSR 30-86.047(29)(B) requires the facility to have twenty-four (24) hour staff appropriate in numbers and with appropriate skills to provide such services. No changes have been made to the rule as the result of this comment.

COMMENT: MHCA commented that paragraph (2)(D)5. should also include "assistance to transfer from a bed or chair."
RESPONSE: The department does not have statutory authority to include "assistance to transfer from a bed or chair" as more than minimal assistance. Assisted living facility legislation, section 198.073.4(8)(e), RSMo (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006)) prohibits such. No changes have been made to the rule as a result of this comment.

COMMENT: MHCA commented that paragraph (3)(A)4. leaves it to the assisted living facility to determine what appropriate staffing is and that places residents at risk. The current law that is being deleted addressed the heightened need for staffing to assist cognitively impaired residents from the building. The department has offered no valid explanation why this was removed decreasing the safety requirements of the cognitively impaired. The rule fails to address minimal staffing requirements for hospice residents who are bed-bound and require skilled services. (Note: only residents receiving hospice care can receive skilled nursing care in an assisted living facility, yet there is no limit to how many hospice residents an assisted living facility can retain). The department must provide at least minimal direction to staffing requirements.
RESPONSE: Assisted living facility legislation, (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006)), specifically removed from law the requirement to count an impaired resident as three (3) when determining staffing. The department does not have statutory authority to require such staffing. The department has provided for minimum staffing requirements in 19 CSR 30-86.047(62), which requires the facility to have an adequate number and type of personnel for the proper care of residents, the residents' social well being, protective oversight of residents and upkeep of the facility. Additionally, 19 CSR 30-86.047(29)(B) requires, "Has 24 hour staff appropriate in numbers and with appropriate skills to provide such services." No changes have been made to the rule as a result of this comment.

COMMENT: Norma J. Collins, Associate State Director—Advocacy, AARP Missouri, commented that the proposed amendment to 19 CSR 30-86.022(15)(D) that was more appropriately directed to the proposed amendment to 19 CSR 30-86.045(3)(A)3. AARP Missouri commented that: the proposed regulations require that "Every facility shall use a personal electronic monitoring device for any resident whose physician recommends the use of such device." At the end of this sentence should be added, "and the resident agrees." Residents should have the right to accept or refuse services and supportive equipment, including electronic monitoring devices.
RESPONSE: The department does not agree that the language concerning personal monitoring devices should include "and the resident agrees" because resident choice is addressed in 19 CSR 30-88.010(13). 19 CSR 30-86.045(3)(A)3. is written in accordance with assisted living legislation, section 198.073.6(5) (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006)). Specific resident rights are set forth in 19 CSR 30-88.010(13). This regulation includes requirements that all Missouri long-term care facilities ensure each resident has the right to accept or refuse treatment. The department considers electronic monitoring recommended by a physician to be a treatment that a resident or his/her legal representative could choose not to accept. No changes have been made to the rule as a result of this comment.

19 CSR 30-86.045 Standards and Requirements for Assisted Living Facilities Which Provide Services to Residents with a Physical, Cognitive, or Other Impairment that Prevents the Individual from Safely Evacuating the Facility with Minimal Assistance

(2) Definitions. For the purposes of this rule, the following definitions shall apply:

(D) Minimal assistance—

1. Is the criterion which determines whether or not staff must develop and include an individualized evacuation plan as part of the resident's service plan;

2. Minimal assistance may be the verbal intervention that staff must provide for a resident to initiate evacuating the facility;

3. Minimal assistance may be the physical intervention that staff must provide, such as turning a resident in the correct direction, for a resident to initiate evacuating the facility;

4. A resident needing minimal assistance is one who is able to prepare to leave and then evacuate the facility within five (5) minutes of being alerted of the need to evacuate and requires no more than one (1) physical intervention and no more than three (3) verbal interventions of staff to complete evacuation from the facility;

5. The following actions required of staff are considered to be more than minimal assistance:

A. Assistance to traverse down stairways;

B. Assistance to open a door; and

C. Assistance to propel a wheelchair;

(3) General Requirements. I/II

(A) If the facility admits or retains any individual needing more than minimal assistance due to having a physical, cognitive or other impairment that prevents the individual from safely evacuating the facility, the facility shall:

1. Meet the fire safety requirements of 19 CSR 30-86.022 (16); I/II

2. Take necessary measures to provide residents with the opportunity to explore the facility and, if appropriate, its grounds; II

3. Use a personal electronic monitoring device for any resident whose physician recommends the use of such device; II

4. Have sufficient staff present and awake twenty-four (24) hours a day to assist in the evacuation of all residents; I/II

5. Include an individualized evacuation plan in the resident's individual service plan; II

6. At a minimum the evacuation plan shall include the following components:

A. The responsibilities of specific staff positions in an emergency specific to the individual; II

B. The fire protection interventions needed to ensure the safety of the resident; and II

C. The plan shall evaluate the resident for his or her location within the facility and the proximity to exits and areas of refuge. The plan shall evaluate the resident, as applicable, for his or her risk of resistance, mobility, the need for additional staff support, consciousness, response to instructions, response to alarms, and fire drills; II

7. The resident's evacuation plan shall be amended or revised based on the ongoing assessment of the needs of the resident; II

8. Those employees with specific responsibilities shall be instructed and informed regarding their duties and responsibilities under the resident's evacuation plan at least every six (6) months and upon any significant change in the plan; II

9. A copy of the resident's evacuation plan shall be readily available to all staff; and II

10. Comply with all requirements of this rule. I/II

(5) Staffing Requirements.

(A) The facility shall have an adequate number and type of personnel for the proper care of residents and upkeep of the facility. At a minimum, the staffing pattern for fire safety and care of residents shall be one (1) staff person for every fifteen (15) residents or major fraction of fifteen (15) during the day shift, one (1) person for every fifteen (15) residents or major fraction of fifteen (15) during the evening shift and one (1) person for every twenty (20) residents or major fraction of twenty (20) during the night shift. I/II

Time	Personnel	Residents
7 a.m. to 3 p.m. (Day)*	1	3–15
3 p.m. to 9 p.m. (Evening)*	1	3–15
9 p.m. to 7 a.m. (Night)*	1	3–20

*If the shift hours vary from those indicated, the hours of the shifts shall show on the work schedules of the facility and shall not be less than six (6) hours. III

(B) The required staff shall be in the facility awake, dressed and prepared to assist residents in case of emergency. I/II

(C) The administrator shall count toward staffing when physically present at the facility. II

(D) These staffing requirements are applicable only when the facility actually has in residence one (1) or more residents who require more than minimal assistance in evacuating the facility. II

(E) At a minimum there shall be a licensed nurse employed by the facility to work at least the following hours per week:

3–30 Residents—8 hours

31–60 Residents—16 hours

61–90 Residents—24 hours

91 or more Residents—40 hours. II

(F) The licensed nurse shall be available to assess residents for pain and significant and acute changes in condition. The nurse's duties shall include, but shall not be limited to, review of residents' records, medications and special diets or other orders, review of each resident's adjustment to the facility and observation of each individual resident's general physical, psychosocial and mental status. The nurse shall inform the administrator of any problems noted and these shall be brought to the attention of the resident's physician and legally authorized representative or designee. II/III

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 86—Residential Care Facilities and Assisted Living Facilities

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 198.005, 198.006, 198.073, 198.076, RSMo Supp. 2006, the department adopts a rule as follows:

19 CSR 30-86.047 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 2, 2006 (31 MoReg 1540–1558). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The department received one thousand three hundred forty-seven (1,347) comments on the proposed rule.

EXPLANATION OF ADDITIONAL CHANGES: Based on comments made at the January 17 and 24, 2007, meetings of the Joint Committee on Administrative Rules (JCAR) regarding the proposed rule filed with JCAR on December 29, 2006, the department is changing subsection (4)(H) to define an individualized service plan (ISP).

EXPLANATION OF ADDITIONAL CHANGES: Based on comments made at the January 17 and 24, 2007, meetings of the Joint Committee on Administrative Rules (JCAR) regarding the proposed rule filed with JCAR on December 29, 2006, the department is changing section (6) to modify the operator and administrator's duties.

EXPLANATION OF ADDITIONAL CHANGES: Based on comments made at the January 17 and 24, 2007, meetings of the Joint Committee on Administrative Rules (JCAR) regarding the proposed rule filed with JCAR on December 29, 2006, the department is deleting section (7) and renumbering following sections.

EXPLANATION OF ADDITIONAL CHANGES: Based on comments made at the January 17 and 24, 2007, meetings of the Joint Committee on Administrative Rules (JCAR) regarding the proposed rule filed with JCAR on December 29, 2006, the department is renumbering section (29) as (28) and changing subsection (G) regarding development of individualized service plans.

EXPLANATION OF ADDITIONAL CHANGES: Based on comments made at the January 17 and 24, 2007, meetings of the Joint Committee on Administrative Rules (JCAR) regarding the proposed rule filed with JCAR on December 29, 2006, the department is renumbering and changing section (33) regarding the requirements for facilities providing care to residents with a mental illness or mental retardation diagnosis.

EXPLANATION OF ADDITIONAL CHANGES: Based on comments made at the January 17 and 24, 2007, meetings of the Joint Committee on Administrative Rules (JCAR) regarding the proposed rule filed with JCAR on December 29, 2006, the department is renumbering and changing section (37) to require that resident care must be provided as directed by the individualized service plan.

EXPLANATION OF ADDITIONAL CHANGES: Based on comments made at the January 17 and 24, 2007, meetings of the Joint Committee on Administrative Rules (JCAR) regarding the proposed rule filed with JCAR on December 29, 2006, the department is renumbering and changing section (38) to mirror the language in the assisted facility legislation 198.073, RSMo (CCS HCS SCS SB 616, 93rd General Assembly Second Regular Session (2006)).

EXPLANATION OF ADDITIONAL CHANGES: Based on comments made at the January 17 and 24, 2007, meetings of the Joint Committee on Administrative Rules (JCAR) regarding the proposed rule filed with JCAR on December 29, 2006, the department is renumbering and changing section (48) regarding oral or telephone prescriptions for residents.

EXPLANATION OF ADDITIONAL CHANGES: Based on comments made at the January 17 and 24, 2007, meetings of the Joint Committee on Administrative Rules (JCAR) regarding the proposed rule filed with JCAR on December 29, 2006, the department is renumbering and changing section (55) regarding resident medication reviews.

EXPLANATION OF ADDITIONAL CHANGES: Based on comments made at the January 17 and 24, 2007, meetings of the Joint Committee on Administrative Rules (JCAR) regarding the proposed rule filed with JCAR on December 29, 2006, the department is renumbering and changing section (59) regarding signing of telephone and other verbal orders.

EXPLANATION OF ADDITIONAL CHANGES: Based on comments made at the January 17 and 24, 2007, meetings of the Joint Committee on Administrative Rules (JCAR) regarding the proposed rule filed with JCAR on December 29, 2006, the department is renumbering and changing section (62) regarding staffing requirements.

COMMENT: Thomas R. Vaeth, Administrator of Marian Cliff Manor, commented that subsection (4)(A) defines the qualifications regarding the appropriately trained and qualified individual to perform the community based assessment. The argument can be made that level I medication aides are indeed registered with the state and are taught by a licensed individual via a state approved course. A certificate with a registered number is given upon course completion and final exam. In addition, how many RCFS employ a staff RN or LPN as opposed to consultant only basis? There are a lot of small RCFS that would have to outsource the assessor position due to budget constraints.

RESPONSE: The department does not agree that a level I medication aide could be considered, "registered with the state." The level I medication aide certificate simply documents proof of successful completion of the department's sixteen (16)-hour level I medication aide course, which is limited to medication administration. No changes have been made to this rule as a result of this comment.

COMMENT: A department staff member commented that subsection (4)(H) Individualized service plan definition in subsection (4)(H) needs to be revised in order to be identical to the definition of this term in the Definitions Chapter 19 CSR 30-83.010.
RESPONSE AND EXPLANATION OF CHANGE: The department agrees and has revised subsection (4)(H) in order to be identical to the definition in the Definitions Chapter, 19 CSR 30-83.010.

COMMENT: A department staff member commented that the Minimal assistance definition in subsection (4)(J) needs to be revised to be identical to the definition of the term in 19 CSR 30-86.045(2)(D).
RESPONSE AND EXPLANATION OF CHANGE: The department agrees and has revised subsection (4)(J) in order to be identical to the definition of the term in 19 CSR 30-86.045(2)(D).

COMMENT: Sharon King, Administrator for Richmond Terrace, Lutheran Senior Services;
Terry Etling, Administrator of Breeze Park;
Linda Detring, Vice President Operations for Lutheran Senior Services; and
Valerie Cooper, Administrator, Laclede Commons, Lutheran Senior Services, commented that section (40) would allow a nurse to identify unsealed medications that are brought into the facility. They had concerns that a nurse has adequate qualifications to examine, identify and make the determination the medication contents would be suitable for use.
RESPONSE: This is a minimum requirement and does not prevent the facility from developing an in-house policy requiring that unsealed medications brought to a facility must be examined by a pharmacist or physician. No change has been made in the rule as a result of this comment.

COMMENT: Sharon King, Administrator for Richmond Terrace, Lutheran Senior Services;
Terry Etling, Administrator of Breeze Park;
Linda Detring, Vice President Operations for Lutheran Senior Services; and
Valerie Cooper, Administrator, Laclede Commons, Lutheran Senior Services, commented that subsection (62)(A) proposes a higher staffing pattern for all assisted living facilities regardless of whether the facility admits or retains residents who require more than minimal assistance to exit the building or seek an area of refuge. The staffing requirements outlined in 19 CSR 30-86.043 are adequate for those facilities that do no plan to admit or retain residents requiring more than minimal assistance. In some facilities, based on licensed occupancy of 99, the facilities would have to increase the evening staffing by .6 FTE and the night shift staffing by 2.80 FTEs. The total increase to operational costs would be in excess of $80,000.00. This calculation is based on a wage of $9.00 per hour and our present benefit package. There are no plans to change admission criteria allowing facilities to admit or retain residents needing more than minimal assistance. This additional operational cost would ultimately be passed on to residents, but they would receive no added value for the increase. As these facilities presently give over $36,000.00 per year in benevolent care dollars for Medicaid residents, this increased operational cost could severely limit their ability to help those residents. And private pay residents would have to pay the increase, which would in turn reduce their assets, potentially driving them toward Medicaid eligibility prematurely. The increased staffing should be directed at those facilities that will follow the proposed 19 CSR 30-86.045. Those facilities should have a higher staffing pattern in order to meet the needs of those residents.
RESPONSE: The department disagrees that the staffing requirements outlined in 19 CSR 30-86.043 (which contain the requirements for residential care facilities that were formerly licensed as residential care facilities II and choose to continue to meet those standards) are adequate for assisted living facilities. These minimum standards reflect the higher acuity of residents, including hospice patients, allowed in an assisted living facility and also reflect the statutorily required social model of care setting, which requires the facility to provide care and services based on abilities, desires, and functional needs of each resident delivered in a setting that promotes the dignity, individuality, privacy, independence, and autonomy of the

individual. More staff will be required. 19 CSR 30-86.047(29)(B) requires, "Has 24 hour staff appropriate in numbers and with appropriate skills to provide such services." No change has been made to this rule as a result of this comment. However, changes have been made as indicated in the "Explanation of Additonal Changes" for this section.

COMMENT: Valerie Cooper, Administrator, Laclede Commons; and Terry Etling, Administrator of Breeze Park commented that subsection (4)(J) defines minimal assistance for evacuation as a resident who can evacuate the facility within five (5) minutes with no more than three (3) verbal interventions and one (1) physical intervention from staff. This definition will be confusing for staff, residents and legal representatives.

RESPONSE: The intent of the department is to provide specific criteria regarding what minimal assistance is and does not agree that providing limits on the verbal and physical interventions will be confusing to staff, residents and their legal representative. The department believes such specific limits will decrease confusion. Adding additional text regarding the limits would increase confusion. No change has been made to the rule as a result of this comment.

COMMENT: A department staff member commented that paragraph (29)(F)2. references the Assessment for Admission To Assisted Living Facilities form, (8-06) but fails to provide the specific MO form number for the referenced form. This paragraph must be amended in order to provide the form number. Secondly, the form was designed to meet the needs of both the emergency and proposed rule and required revision as a result of the emergency rule being withdrawn.

RESPONSE AND EXPLANATION OF CHANGES: The department agrees that the Assessment for Admission To Assisted Living Facilities form required revision and that the incorporated form number must be referenced in this paragraph. Paragraph (29)(F)2. has been revised to include the form number and the (9-06) form revision date.

COMMENT: Linda Detring RN MSN, VP Operations, Lutheran Senior Services; Sharon King, Administrator for Richmond Terrace, Lutheran Senior Services;

Terry Etling, Administrator of Breeze Park; and

Valerie Cooper, Administrator of Laclede Commons, commented that subsection (57)(D) would allow the facility to release an expired resident's medication to the resident's legal representative. Since the medication is prescribed for the resident, why would the legal representative want the medication unless for his/her personal use, which is against medical advice? What if one of the medications was Oxycodone, a powerful narcotic and often abused drug wanted on the street for illicit use? They do not believe that the department should condone this practice. These medications should be destroyed by the facility.

RESPONSE: This requirement is written as a resident rights issue since the medications actually are the property of the resident. However, subsection (57)(D) specifically excludes controlled substances. No change has been made to the rule as a result of this comment.

COMMENT: Stacy Tew-Lovasz, on behalf of Sunrise Communities commented that the definition of significant change in subsection (4)(L) can be interpreted to include changes that are not significant because a relatively minor change can require an adjustment in the resident service or treatment plan. This has far reaching impact.

RESPONSE AND EXPLANATION OF CHANGE: The department agrees that the definition requires clarification and has revised the definition in subsection (4)(L) in order to further clarify what a significant change is.

COMMENT: Ms. Tew-Lovasz commented that the community based assessment time frame in subparagraph (29)(F)1.A. should be changed from five (5) days to ten (10) days.

RESPONSE: Assisted living facility legislation, section 198.073.4.(5)(a), RSMo (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006)), requires the assisted living facility to complete a community based assessment, "Upon admission." The department believes that completion within five (5) days of admission is a reasonable standard and satisfies the statutory requirement for "upon admission." Allowing ten (10) days for completion is not a reasonable standard for satisfying the statutory requirement, since the community based assessment identifies the resident's needs and must be used to develop the individualized service plan. No change has been made to the rule as a result of this comment.

COMMENT: Ms. Tew-Lovasz commented that in paragraphs (29)(F)2. and 4. the department is going beyond the assisted facility legislation, which does not require an assessment tool to be created by the department July 1, 2009.

RESPONSE AND EXPLANATION OF CHANGE: The department agrees and has amended paragraph (29)(F)2., deleting the July 1, 2009 date. Secondly, the department has deleted paragraph (29)(F)4.

COMMENT: Ms. Tew-Lovasz commented the requirement in subsection (29)(G) contains too much detail for a regulation that should be focused on the outcome desired. Recommend deleting the detailed requirements and replacing with the wording "outlining the needs and preferences of the residents."

RESPONSE: This regulation is focused on outcome desired, person-centered care. The department believes the specific requirements are necessary in order to meet the intent of the person-centered care. No changes have been made to the rule as a result of this comment.

COMMENT: Ms. Tew-Lovasz commented regarding section (62) that onerous staffing requirements are already today a disincentive to current operators who could qualify to become an assisted living facility but will not choose to do so. The assisted living legislation has added extensive fire safety precautions to address fire safety and additional staffing is not needed. The fiscal note does not reflect the magnitude of the impact. Recommend retaining current residential care facility II staffing requirements.

RESPONSE: The department disagrees that additional staff is not needed for assisted living facilities. These minimal standards reflect the higher acuity of residents allowed in an assisted living facility and also reflect the statutorily required social model of care setting, which requires the facility to provide care services based on abilities, desires, and functional needs of each resident delivered in a setting that promotes the dignity, individuality, privacy, independence, and autonomy of the individual. More staff will be required to provide person-centered care required of a social model of care. The fiscal note is accurate to the best of the department's ability. No change has been made to the rule as a result of this comment. However, changes have been made as indicated in the "Explanation of Additional Changes" for this section.

COMMENT: Ms. Tew-Lovasz commented recommend decreasing the initial two (2)-hour transfer training minimum to one and one-half (1 1/2) hours and the ongoing transfer training from one (1) hour to one-half (1/2) hour in subsections (66)(A) and (B).

RESPONSE: The department disagrees with this recommendation. Assisted living facilities are allowed to employ level I medication aides as care staff. The level I medication course does not include any training regarding transfer skills. The department believes the required two (2) hour initial and one (1) hour ongoing training to be only minimum requirements in order to prepare level I medication aides and other staff to provide safe transfers. No changes have been

made to the rule as a result of this comment.

COMMENT: John Munch, Dolan Residential Care Centers, commented that the requirement in subsection (14)(D) is not practicable and would negatively impact upon his service offering. This needs to be deleted or significantly modified to permit a more reasoned approach.

RESPONSE: Section 660.317, RSMo provides the statutory authority for this requirement. The department interprets the statutory term "employed" to include persons who perform work, paid or unpaid, in the facility. This regulation allows the facility the option of accompanying the repair person to ensure the safety of residents. No change has been made to the rule as a result of this comment.

COMMENT: Mr. Munch commented that assessment time frames in paragraph (29)(F)1.should increase to seven (7) to ten (10) days. As a social model of care behavior is a significant component of assessment and seven (7) to ten (10) days would permit a much better time frame to observe for behaviors as well as a resident's acceptance of the new surroundings.

RESPONSE: Assisted living facility legislation, section 198.073.4(5)(a), RSMo, (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006)), requires the assisted living facility to complete a community based assessment "Upon admission." The community based assessment identifies the resident's needs and must be used to develop the individualized service plan. The department believes that completion within five (5) days of admission is a reasonable standard, which satisfies the statutory requirement for "upon admission." The department agrees that a resident's behaviors may change for several days or weeks following admission, but allowing additional time for completion is not a reasonable standard for satisfying the statutory "upon admission" requirement. No change has been made to the rule as a result of this comment.

COMMENT: Mr. Munch commented why is the department making the short period of recuperation requirement a Class I in section (58)? This is unnecessary and should be a Class II.

RESPONSE AND EXPLANTION OF CHANGE: The department agrees that this statutory requirement should be classified as a Class II and has changed the classification to a Class II in section (58).

COMMENT: Mr. Munch commented that staffing requirements in section (62)(A) need to be returned to the previous residential care facility II levels. Minimum staffing requirements do not equate to quality care.

RESPONSE: The department disagrees that staffing for assisted living facilities should be the same as those required in the former residential care facility II requirements. The minimal standards of (62)(A) reflect the higher acuity of residents allowed in an assisted living facility and also reflect the statutorily required social model of care setting, which requires the facility to provide care services based on abilities, desires, and functional needs of each resident delivered in a setting that promotes the dignity, individuality, privacy, independence, and autonomy of the individual. More staff will be required. 19 CSR 30-86.047(29)(B) requires, "Has 24 hour staff appropriate in numbers and with appropriate skills to provide such services." No change has been made to the rule as a result of this comment. However, changes have been made as indicated in the "Explanation of Additional Changes" for this section.

COMMENT: Mr. Munch commented that section (66) should include a requirement for transfer training to be completed by licensed nurses or physical or occupational therapists. One (1)-hour classroom with return demonstration would be more than ample training for this topic. A review annually of thirty (30) minutes would be ample time to keep staff current in their skills.

RESPONSE AND EXPLANATION OF CHANGE: The department agrees that physical therapists and occupation therapists should be included as individuals qualified to instruct transfer training and has amended section (66) to reflect this change.

COMMENT: The Honorable Jeanette Mott Oxford, District 5, Missouri House of Representatives commented that the five (5)-minute evacuation rule in paragraph (4)(J)4. is unrealistic, even with careful planning some will require more than five (5) minutes to exit the building. Fire monitoring and sprinkler systems should be sufficient to prevent tragedies.

RESPONSE: The department disagrees that five (5) minutes is unrealistic. Please refer to 19 CSR 30-86.047(4)(F), which defines the term "Evacuating the facility"—For the purpose of this rule, evacuating the facility shall mean moving to an area of refuge or from one (1) smoke section to another smoke section or exiting the facility. Allowing more than five (5) minutes does not provide needed safety in a fire emergency. No change has been made to the rule as a result of this comment.

COMMENT: The Honorable Jeanette Mott Oxford commented that the staffing requirements in subsection (62)(A) should be the same as the current residential care facility II.

RESPONSE: The department disagrees that staffing for assisted living facilities should be the same as those required in the former residential care facility II requirements. The minimum standards of (62)(A) reflect the higher acuity of residents allowed in an assisted living facility and also reflect the statutorily required social model of care setting, which requires the facility to provide care services based on abilities, desires, and functional needs of each resident delivered in a setting that promotes the dignity, individuality, privacy, independence, and autonomy of the individual. More staff will be required to provide these services. No change has been made to the rule as a result of this comment. However, changes have been made as indicated in the "Explanation of Additional Changes" for this section.

COMMENT: Mary Beck, resident's family member, commented that the assisted living facility legislation did not include five (5) minutes in the law. The five (5)-minute requirement is outside the scope of authority of the department.

RESPONSE: The department disagrees that setting a five (5)-minute time frame is outside the scope of the authority of the department. Please refer to 19 CSR 30-86.047(4)(F), which defines the term "Evacuating the facility"—For the purpose of this rule, evacuating the facility shall mean moving to an area of refuge or from one (1) smoke section to another or exiting the facility. Allowing more than five (5) minutes does not provide needed safety in a fire emergency. No change has been made to the rule as a result of this comment.

COMMENT: Susan McCann, Department of Health and Senior Services, Bureau of Narcotics and Dangerous Drugs, commented that the word "unsealed" in section (40) was not used in previous drafts and should be deleted. All medications brought to the facility by the residents should be examined and approved before use. Even sealed medication packages could be expired, damaged, unsanitary or have other evidence of being unsuitable (faded labels or faded color on tablets could indicate excess exposure to sunlight and degradation, liquids could have particulate matter, etc.).

RESPONSE: The department disagrees that the word, "unsealed" should be deleted from section (40). The department believes requiring every medication brought in to the facility would be potentially invasive to the individual. The department will leave section (40) as written but will be open to more feedback in the future. No change was made to the rule as a result of the comment.

COMMENT: Ms. McCann commented that the reference to repackaging by facility staff in section (43) should be to section (44) rather than (45).
RESPONSE AND EXPLANATION OF CHANGE: The department agrees with this comment and has revised section (43) to refer to section (44) rather than section (45).

COMMENT: Ms. McCann commented that in subparagraph (48)(F)1.B. the word "or" should be "unless."
RESPONSE AND EXPLANATION OF CHANGE: The department agrees and has amended subparagraph (48)(F)1.B.

COMMENT: Ms. McCann commented that the word "with" should be deleted from the phrase ". . . with access. . . " in paragraph (48)(F)3.
RESPONSE AND EXPLANATION OF CHANGE: The department agrees the word "with" should be deleted and has amended paragraph (48)(F)3.

COMMENT: A department staff member commented that the word "and" was omitted from the second sentence of section (43). The sentence should read, "All medications, including over-the-counter medications, shall be packaged and labeled in accordance with applicable professional pharmacy standards, and state and federal drug laws."
RESPONSE AND EXPLANATION OF CHANGE: The department agrees and has inserted the word, "and" as recommended in section (43).

COMMENT: Charlie Schott, Executive Director for Good Shepherd Care Center District, why is there a need for laborious paper requirements for our families in subsection (48)(F) when the local health department provides flu shots to residents?
RESPONSE AND EXPLANATION OF CHANGE: The department agrees that accessing screening and immunization through outside resourses such as the local health department is an acceptable manner in which to provide this service for your residents and intended that the section (48) requirement clearly state such. The department has revised the sentence structure of subsection (48)(F) for clarification.

COMMENT: A department staff member commented that subparagraph (48)(F)1. A. also requires a sentence structure change for clarification and should read, "Provide education to each resident or the resident's designee or legally authorized representative regarding the potential benefits and side effects of the immunization;"
RESPONSE AND EXPLANATION OF CHANGE: The department agrees and has restructured the sentence in paragraph (48)(F)1. as recommended.

COMMENT: Susan McCann, DHSS, Bureau of Narcotics and Dangerous Drugs, commented that the reference to discharge medications in subsection (57)(C) should be section (45) rather than (44).
RESPONSE AND EXPLANATION OF CHANGE: The department agrees and has revised subsection (57)(C) to reference section (45) rather than section (44).

COMMENT: A department staff member commented that a portion of the first sentence in subsection (57)(A) had been omittted from the proposed rule.
RESPONSE AND EXPLANATION OF CHANGE: The department agrees and has revised section (57) to include the omitted text.

COMMENT: Bruce Hillis, Vice President, RH Montgomery Properties, Inc. commented that subsection (62)(A) is contrary to the intent of the assisted living facility legislation. This rule establishes an arbitrary minimum staffing requirement that is in no way related to a measurement of the staff required to provide the "oversight and services" as documented in the written contract. This rule establishes a minimum staffing pattern merely to secure the assisted living license and to use the name but is not at all related to the appropriate staffing for the services and care of residents.
RESPONSE: The department disagrees that staffing for assisted living facilities should be the same as those required in the former residential care facility II requirements. The minimal standards of (62)(A) reflect the higher acuity of residents allowed in an assisted living facility and also reflect the statutorily required social model of care setting, which requires the facility to provide care services based on abilities, desires, and functional needs of each resident delivered in a setting that promotes the dignity, individuality, privacy, independence, and autonomy of the individual. More staff will be required. 19 CSR 30-86.047(29)(B) requires, "Has 24 hour staff appropriate in numbers and with appropriate skills to provide such services." No change has been made to the rule as a result of this comment. However, changes have been made as indicated in the "Explanation of Additional Changes" for this section.

COMMENT: Charlie Schott, Executive Director for Good Shepherd Care Center District, commented that subsection (4)(J) should take into consideration if a resident has family members that regularly spend the day or stay overnight with the resident to assist in evacuations. Having staff open a door for a resident should not be considered more than minimal assistance.
RESPONSE: This definition explains what "minimal assistance" means in terms of the type of assistance that is needed or provided rather than who is providing the assistance. The facility has overall responsibility for the safety of its residents and cannot place that responsibility on a family member since it cannot ensure that the family member would be at the facility in the event an evacuation is necessary. No change has been made to the rule as a result of this comment.

COMMENT: Mr. Schott commented please change subsection (4)(L) to say: "A major change in the resident's physical, emotional, or psychosocial condition or behavior that continues unabated for fourteen days and is of such a degree that it would require a substantive adjustment or modification in the resident's treatment or services."
RESPONSE AND EXPLANATION OF CHANGE: The department agrees that the definition requires clarification and has revised the definition in subsection (4)(L) in order to further clarify what a significant change is.

COMMENT: Mr. Schott commented the time frame for completion of the assessment should be changed to ten (10) days in paragraph (29)(F)1.
RESPONSE: Assisted living facility legislation, section 198.073.4.(5)(a), RSMo, (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006)), requires the assisted living facility to complete a community based assessment "Upon admission." The community based assessment identifies the resident's needs and must be used to develop the individualized service plan. Please refer to the department's previous response to this same comment. No change has been made to the rule as a result of this comment.

COMMENT: Mr. Schott commented please authorize a licensed nurse rather than a registered nurse to review residents' medication regimen in section (55).
RESPONSE: The department does not agree that a licensed practical nurse is qualified to make the assessment required for reviewing residents' medication regimen. Additionally, the requirement for review of residents' medication regimens by a nurse or pharmacist is consistent with the department's regulations relating to residential care facilities, intermediate care facilities and skilled nursing facilities. There is nothing inherently different about assisted living facilities that would make the requested change necessary or advisable.

No change has been made to the rule as a result of this comment.

COMMENT: Mr. Schott questioned the rationale for enhancing the penalty for section (58) of the rule?
RESPONSE AND EXPLANATION OF CHANGE: The department agrees that section (58) should be classified as a Class II and has changed the classification in section (58).

COMMENT: Mr. Schott requested the department reconsider to keep staffing ratios which were previously in place for residential care facilities II rather than adding the requirement in subsection (62)(A).
RESPONSE: The department does not agree that staffing ratios previously in place for residential care facilities II are adequate for assisted living facilities. The minimum staffing standards required at subsection (62)(A) reflect the higher acuity of residents allowed in an assisted living facility and also reflect the statutorily required social model of care setting, which requires the facility to provide care services based on abilities, desires, and functional needs of each resident delivered in a setting that promotes the dignity, individuality, privacy, independence, and autonomy of the individual. More staff will be required. No change has been made to the rule as a result of this comment. However, changes have been made as indicated in the "Explanation of Additional Changes" for this section.

COMMENT: Mr. Schott commented some facilities use both physical and occupational therapists to teach transfer training because they have greater knowledge of body mechanics and the appropriate way to lift. The department should add these therapists to those individuals who can provide transfer training listed in section (66).
RESPONSE AND EXPLANATION OF CHANGE: The department agrees that physical therapists and occupation therapists should be included as individuals qualified to instruct transfer training and has revised section (66) to reflect this change.

COMMENT: Denise Clemonds, CEO for Missouri Association of Homes for the Aging;
Marshal Cope, Executive Director for New Florence Care Center;
Elliot Planells of St. Andrews Management Services;
Susan McClenahan, Executive Director for The Sarah Community;
Joan Devine, Clinical Services Director for St. Andrews Management Services;
Christopher Wiltse, Anna House Administrator;
Julie Klein, Mispah Manor Administrator;
Charlotte Lehmann, Executive Director for Cape Albeon; and
Tyler Troutman, Executive Director for Brooking Park, commented that the definition in subsection (4)(H) requires "outcomes" be added to the individualized service plan (ISP). Assisted facility legislation does not require outcomes in the ISP, and we believe this is both unnecessary and outside statutory authority.
RESPONSE AND EXPLANATION OF CHANGE: The department does not agree with this comment. The intent of the regulation is to ensure that the ISP is a useful tool for staff and residents. Identifying expected outcomes entails a process of developing, implementing and evaluating the progress and effectiveness of the ISP. This process does not conflict with the statutory components of the ISP. No changes have been made to the rule as a result of this comment. However, the department has revised the definition in subsection (4)(H) in order to make it consistent with the term as defined in 19 CSR 30-83.010.

COMMENT: Ms. Clemonds, Ms. Cope, Mr. Planells, Ms. McClenahan, Ms. Devine, Mr. Wiltse, Ms. Klein, Ms. Lehmann and Mr. Troutman commented that the definition in subsection (4)(H) should not just pertain to the two (2) types of residents stated in the draft rules (not capable of evacuation and low likelihood of success). In some areas of the state, the local fire officials recommend "all" residents remain in place. The following language should be used: "Keeping residents in place—means maintaining residents in place during a fire in lieu of evacuation where a building's occupants are not capable of evacuation, where evacuation has a low likelihood of success or where local fire officials recommend it as having a better likelihood of success and/or lower risk of injury."
RESPONSE AND EXPLANATION OF CHANGE: The department agrees and has revised subsection (4)(I) to include, "or where it is recommended in writing by local fire officials as having a better likelihood of success and/or a lower risk of injury."

COMMENT: Ms. Clemonds, Ms. Cope, Mr. Planells, Ms. McClenahan, Ms. Devine, Mr. Wiltse, Ms. Klein, Ms. Lehmann and Mr. Troutman commented subsection (4)(J) should allow residents with family members that regularly stay overnight with the resident to assist in evacuations and not to consider their assistance to be an intervention. This would allow more individuals to age in place. Second, having a staff member open the door for a resident should not be considered more than minimal assistance. Delete this from the requirement.
RESPONSE: The department does not agree with this comment. Subsection (4)(J) of this rule defines what minimal assistance is and not who is providing the intervention. Please refer to the department's response above to Mr. Schott regarding the same comment. Secondly, requiring a staff member to open a door must be considered an intervention since the resident would be unable to evacuate the facility without that intervention. Such intervention for the individual would require the staff member to go to the door with the resident, which would take a staff member away from assisting another resident. The department has amended subsection (4)(J) in order to be identical to the definition of the term in 19 CSR 30-86.045(2)(D). However, no changes have been made to 19 CSR 30-86.047(4)(J) as the result of this comment.

COMMENT: Ms. Clemonds, Ms. Cope, Mr. Planells, Ms. McClenahan, Ms. Devine, Mr. Wiltse, Ms. Klein, Ms. Lehmann and Mr. Troutman commented the definition of significant change in subsection (4)(L) can be interpreted to include changes that are not truly significant because relatively minor changes can "require an adjustment or modification in the resident's treatment or services." The following language should be used instead: "Significant change—Means a major change in the resident's physical, emotional or psychosocial condition or behavior that continues unabated for fourteen days and is of such a degree that it would require a substantive adjustment or modification in the resident's treatment or services."
RESPONSE: The department does not agree with this definition. A life threatening significant change could result in death long before fourteen (14) days had expired. No changes have been made to the rule as a result of this comment.

COMMENT: Ms. Clemonds, Ms. Cope, Mr. Planells, Ms. McClenahan, Ms. Devine, Mr. Wiltse, Ms. Klein, Ms. Lehmann and Mr. Troutman commented section (6) should be clarified to include "oversight of residents to assure that they receive care appropriate to their needs" after that phrase "as documented in their ISP." in the administrator's responsibilities.
RESPONSE: The department does not agree with this recommendation. While the department agrees the administrator should ensure the individual service plan is specific to each resident's needs, the facility has healthcare oversight for all residents and their care. The fact that the facility fails to include the need and appropriate care in the individual service plan should not relieve the administrator of the responsibility for oversight. No change has been made to the rule as a result of this comment.

COMMENT: Ms. Clemonds, Ms. Cope, Mr. Planells, Ms. McClenahan, Ms. Devine, Mr. Wiltse, Ms. Klein, Ms. Lehmann and Mr. Troutman commented that in section (13) "Work" should be replaced by "employed by." The term "work" is so broad as to be

unenforceable. "Work" is not defined, and could include supply salespersons coming to the facility and any other number of people who may have occasion to enter a facility for a brief time in the course of their employment. Furthermore, the statutory authority of the department only applies to employees under section 660.315, RSMo, subsection (12).
RESPONSE: The department does not agree with this comment. Section 198.076, RSMo (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006)) requires the department to promulgate reasonable standards and regulations to ensure the safety and welfare of residents. No changes have been made to the rule as a result of this comment.

COMMENT: Ms. Clemonds, Ms. Cope, Mr. Planells, Ms. McClenahan, Ms. Devine, Mr. Wiltse, Ms. Klein, Ms. Lehmann and Mr. Troutman commented subsection (14)(D) is unworkable. When the sewer is backed up, the air conditioning breaks down in the middle of July, or freezers and coolers break down in the dietary section, the health, safety and comfort of our residents requires immediate action. The risk to their health and safety is far greater if repairs wait until background checks are made or until staff can take time from caring for residents to simply watch repair contractors do their work. The provision in subsection (14)(D) needs to be deleted.
RESPONSE: The department does not agree. This regulation allows the facility the option of accompanying the repair person in lieu of requiring a criminal background check in order to ensure the safety of residents. No change has been made to the rule as a result of this comment.

COMMENT: Ms. Clemonds, Ms. Cope, Mr. Planells, Ms. McClenahan, Ms. Devine, Mr. Wiltse, Ms. Klein, Ms. Lehmann and Mr. Troutman commented After the words "The administrator shall" in section (21) insert the phrase "be responsible for," clarifying that the administrator may delegate actual record keeping but not responsibility for the records.
RESPONSE: The department does not agree that this word change is necessary in order to clarify the intent of the requirement. No change has been made to the rule as a result of this comment.

COMMENT: Ms. Clemonds, Ms. Cope, Mr. Planells, Ms. McClenahan, Ms. Devine, Mr. Wiltse, Ms. Klein, Ms. Lehmann and Mr. Troutman commented subsection (29)(D) should be clarified that the premove-in screening tool supplied by the DHSS does not have to be used by an assisted living facility (ALF).
RESPONSE AND EXPLANATION OF CHANGE: The department agrees and has revised subsection (29)(D) in order to clairify that assisted living facilities are not required to use the pre-screening tool developed by the department.

COMMENT: Ms. Clemonds, Ms. Cope, Mr. Planells, Ms. McClenahan, Ms. Devine, Mr. Wiltse, Ms. Klein, Ms. Lehmann and Mr. Troutman commented that the five (5)-day requirement to complete the assessment in subparagraph (29)(F)1.A. should be changed to ten (10) days. Sometimes a better assessment can be completed after a resident has "settled in" for a few days. Ten (10) days would also match the allowance in SB 616 for receipt of documentation of the physician's admission physical examination. Both are required to draft an individualized service plan for the resident, so it is logical that they have the same time frames for completion.
RESPONSE: Assisted living facility legislation, section 198.073.4.(5)(a), RSMo (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006)), requires the assisted living facility to complete a community based assessment, "Upon admission." The department believes that completion within five (5) days of admission is a reasonable standard and satisfies the statutory requirement for "upon admission." Allowing ten (10) days for completion is not a reasonable standard for satisfying the statutory requirement, since the community based assessment identifies the resident's needs and must be used to develop the individualized service plan. No change has been made to the rule as a result of this comment.

COMMENT: New Florence Care Center commented that paragraph (29)(F)4., which mandates a specific community based assessment tool appears to exceed statutory authority under 198.006(7), RSMo which only gives your department the authority to "approve" the tool. Some facilities have spent time and money in developing assessment tools and many providers have already purchased assessment instruments from vendors.

This requirement is in preparation for a single point of entry (SPE) system. While New Florence Care Center supports this concept, the authority to impose a mandated assessment tool should be discussed at the time the SPE system is developed. Remove this language from the proposed rule.
RESPONSE AND EXPLANATION OF CHANGE: The department agrees and has deleted paragraph (29)(F)4.

COMMENT: Ms. Clemonds, Ms. Cope, Mr. Planells, Ms. McClenahan, Ms. Devine, Mr. Wiltse, Ms. Klein, Ms. Lehmann and Mr. Troutman commented delete the current language in subsection (48)(F) and replace with, "The facility may develop a policy for ensuring residents have the opportunity for assessment for receiving influenza and pneumococcal immunizations."
RESPONSE AND EXPLANATION OF CHANGE: While the department does not agree with the specific language recommended, the department has amended section (48) to clarify that the facility has the option of accessing screening and immunization through outside resources.

COMMENT: Ms. Clemonds, Ms. Cope, Mr. Planells, Ms. McClenahan, Ms. Devine, Mr. Wiltse, Ms. Klein, Ms. Lehmann and Mr. Troutman commented that section (55) should authorize a "licensed" nurse rather than a "registered" nurse to review medication regimens. This is consistent with allowing licensed nurses or pharmacists to review medication orders under 19 CSR 30-86.047(48)(D).
RESPONSE: The department disagrees with this recommendation. Review of residents' medication regimens requires assessment by a registered professional nurse or a pharmacist. No change has been made to the rule as a result of this comment.

COMMENT: Ms. Clemonds, Ms. Cope, Mr. Planells, Ms. McClenahan, Ms. Devine, Mr. Wiltse, Ms. Klein, Ms. Lehmann and Mr. Troutman commented that there is no rationale for enhancing the penalty for section (58) of the rule, particularly in light of the statutory requirement to create a home-like environment and social model of care. There is no indication that this rule has been abused to the point of making it a Class I violation. Also, this provision is statutory and a Class II violation is all that is required.
RESPONSE AND EXPLANTION OF CHANGE: The department agrees and has changed the classification to a Class II in section (58).

COMMENT: Ms. Clemonds, Ms. Cope, Mr. Planells, Ms. McClenahan, Ms. Devine, Mr. Wiltse, Ms. Klein, Ms. Lehmann and Mr. Troutman commented the department should reconsider subsection (62)(A) and keep the staffing ratios previously in place for residential care facilities II (RCFs II) as a minimum requirement, including the separate staffing ratios for facilities attached to a nursing facility. Staffing is the biggest expense of an assisted living facility (ALF). The fiscal note reflects a twenty percent (20%) increase in the cost of staffing for those facilities expected to move from RCF II to an ALF, all to be paid for by residents, their family members, or the public. The increase in staffing ratios in the evening and at night compared to staffing ratios required previously of an RCF II is the biggest portion of that expense. For a previous RCF II attached to a nursing facility, the proposed staffing ratios are higher for all shifts.

The increase for attached facilities is quite onerous, especially considering that they have staff nearby to help in emergencies.

The proposed rule deals with the issue in an outmoded, one-size-fits-all fashion without recognizing that facilities will vary significantly in the type of residents they serve. It also does not recognize that facilities will vary widely in safety features such as sprinklers and other fire resistant features.

A number of facilities previously licensed as residential care facilities II will serve residents in the future that have the same service needs as those they previously served. They will not choose to meet the regulations in 19 CSR 30-86.045. Many facilities with large capacities may only have one (1) or two (2) residents at a time that need minimal assistance in an emergency, but the regimented proposal would require a twenty percent (20%) staffing increase even in that situation. To require them to have higher staffing will make costs increase for their residents. Future potential residents of modest means will be more likely to seek the more restrictive environment of a skilled nursing facility because of the availability of Medicaid funding. Also, this requirement would hinder the development of ALFs because of the huge cost increase. Many rural communities may only have one (1) RCF or ALF, serving a fairly wide variety of needs. This mandated cost, no matter if needed in an individual facility, would inhibit those homes from seeking an ALF license and providing that choice in care to residents of their service area. Surely your department doesn't want to deny this choice to Missouri seniors in rural areas.

The staffing requirement proposed for evening and night shifts is, in some circumstances, the same as that required for a skilled nursing facility. In summary on staffing requirements:

•It is very difficult to see the logic in ever requiring the same staffing as skilled nursing facilities.

•It is quite likely that a number of ALFs will choose to serve the same type of residents as they served in the past as RCF IIs, but the proposed rule mandates a minimum twenty percent (20%) staffing cost increase passed through to residents.

•There is no objection to the portion of 19 CSR 30-86.047(64)(A) that requires adequate staff to give proper care, which gives your surveyors leeway to require more than minimum staffing if needed for resident services.

•ALFs who choose to meet the requirements of both 19 CSR 30-86.045 and 19 CSR 30-86.047 may have residents with higher service needs than those served in the past by RCF IIs. Their service needs will be reflected in the service plans along with the resident preference and will allow the department to monitor service/preference requirements and thereby the amount and type of staff needed at any time.

•Adequate staffing should be determined by the assessment in conjunction with the required physician physical examination of each individual resident and will be reflected in the service plan.

•Surveyors should look at results, not numbers in a rulebook. Quality of staff is often more important than numbers, and staff work ethic and attention to resident services may well mean more than simply numbers of workers who clock in.

RESPONSE: The department disagrees that staffing requirements for assisted living facilities should be the same as those required in the former residential care facility II requirements. The minimal standards of (62)(A) reflect the higher acuity of residents allowed to be cared for in an assisted living facility and also reflect the statutorily required social model of care setting, which requires the facility to provide care services based on abilities, desires, and functional needs of each resident delivered in a setting that promotes the dignity, individuality, privacy, independence, and autonomy of the individual. More staff will be required. Regulation 19 CSR 30-86.047(29)(B) requires, "Has 24 hour staff appropriate in numbers and with appropriate skills to provide such services." Additionally, the fiscal note is accurate to the best of the department's ability. No change has been made to the rule as a result of this comment. However, changes have been made as indicated in the "Explanation of Additional Changes" for this section.

COMMENT: Ms. Clemonds, Ms. Cope, Mr. Planells, Ms. McClenahan, Ms. Devine, Mr. Wiltse, Ms. Klein, Ms. Lehmann and Mr. Troutman commented that disallowing the counting of the administrator in staffing requirements for facilities of more than sixty (60) residents in section (62)(C) is quite arbitrary. This provision should be returned to the original standard of one hundred (100) residents or, at the least, allow a major fraction over sixty (60) before requiring an additional staff to replace an administrator in calculating ratios.

RESPONSE: The department does not agree that the administrator should be counted into the staffing ratio. Assisted living legislation allows for a higher acuity of care than does residential care. No changes have been made to the rule as a result of this comment. However, changes have been made as indicated in the "Explanation of Additional Changes" for this section.

COMMENT: Ms. Clemonds, Ms. Cope, Mr. Planells, Ms. McClenahan, Ms. Devine, Mr. Wiltse, Ms. Klein, Ms. Lehmann and Mr. Troutman commented that section (64) appears to have a typographical error, citing section (65), which should be changed to section (63).

RESPONSE AND EXPLANATION OF CHANGE: The department agrees and has changed the reference to section (63) in section (64).

COMMENT: Ms. Clemonds, Ms. Cope, Mr. Planells, Ms. McClenahan, Ms. Devine, Mr. Wiltse, Ms. Klein, Ms. Lehmann and Mr. Troutman commented that the hours should be revised with one (1) hour of dementia training required during orientation and an additional two (2) hours training required at any time during the first year of employment in section (64). The training could be limited to the basic issues of communicating with dementia residents and behavior management.

RESPONSE: The department disagrees with the recommendation. Thorough orientation is needed upon hiring in order to ensure employees have the necessary skills to work with residents having dementia. No change has been made to the rule as a result of this comment.

COMMENT: Ms. Clemonds, Ms. Cope, Mr. Planells, Ms. McClenahan, Ms. Devine, Mr. Wiltse, Ms. Klein, Ms. Lehmann and Mr. Troutman commented that in addition to licensed nurse, those authorized to provide transfer training in section (66) be expanded to include physical therapists, physical therapy assistants, occupational therapists, certified occupational therapy assistants and restorative aides.

RESPONSE AND EXPLANATION OF CHANGE: The department agrees that (66)(A) should be expanded and has changed the rule to include physical therapists, physical therapy assistants, occupational therapists and certified occupational therapy assistants as professionals authorized to provide transfer training. This expanded list does not include restorative aides.

COMMENT: The training time be reduced to one (1) hour of classroom time with one-half (1/2) hour of additional training annually. Based on consultation with a professional therapist in the field of long-term care, one (1) good hour of classroom training in addition to the on-the-job-training required by your proposed rule is both sufficient and efficient.

RESPONSE: The department disagrees with this recommendation. Assisted living facilities are allowed to employ level I medication aides as direct care staff. The level I medication course does not include any training regarding transfer skills. The department believes the required two (2) hour initial training and one (1) hour ongoing training to be only minimum requirements in order to prepare level I medication aides and other staff to provide safe transfers.

No changes have been made to the rule as a result of this comment.

COMMENT: Jorgen Schlemeirer, on behalf of Missouri Assisted Living Association (MALA) and the following associates of MALA: Connie McClain, Marketing/Mgmt for Lone Pine Residential Care, Ironton Residential Care, Maple Ridge Residential Care, South Haven Residential Care and Dent County Residential Care;
Shelly Long, Office Secretary, Lone Pine Residential Care;
Patty Anderson, Office Manger of Lone Pine Residential Care;
Bridgett Madden, Assistant Manager of Lone Pine Residential Care;
Sheri Pratt, Manager of Lone Pine Residential Care;
Jill Moise, Manager of Ironton Residential Care;
Dawn Gainer, Manager of Maple Ridge Residential Care;
Lisa Hedrick, Manager of Dent County Residential Care;
Wilma Davis, Administrator of South Haven Residential Care;
Dave Thomas, President, Thomas Marketing, Inc.;
Pam Thomas, R.N., Administrator, Thomas Management, Inc.;
Sharron K. Davis-Buckner, Administrator of Loving Care Home;
Cynthia Skidmore, Administrator of Autumn Place Residential Care of Joplin;
Karen Price, Owner of Dove Senior Citizen Home;
Phillip O. Farley, Owner of Sunnyhills Residential Care Facility;
Tom Walker, Administrator of Superior Park;
Frank Mosby, Administrator of Sabbath Manor;
Jill Hieronymus, Owner of Royal Oaks Residence;
Roswitha Long, Administrator of Countryside Care Center;
Peggy Keith, Administrator of Parkwood Meadows Assisted Living;
Tammy Smith, Director of Gasconade Terrace Retirement Center;
Ralene E. Davis, Owner/Manager of Guardian Angel RCF;
Bob Adams, Administrator of Walnut Street Residential Care and of The Colonial Home;
Joanna Mooney, Administrator of Cedars of Liberty and representing Lucy Webb, Owner;
Tricia Mosbacher, Regional Director of Operations Americare;
Linda Atchley, Operator of Colonial Manor LLC;
Teresa Compton, Administrator of Maple Crest Manor, Frederick Street Manors I & II;
Ronald Conway, Administrator of Colonial Retirement Center, Inc.;
Michael Long, Owner of Cedar Ridge Care Center;
Donna Quimby-Edwards, Owner of Century Pines Assisted Living;
JoAne Pate; Director of Nursing for Arana Manor and Silver Spur;
Bruce Harris, Administrator/Owner/Operator of Harris Care Centers;
Lisa Harris, President/Owner/Operator of Harris Care Centers;
Jeanette McCamis, Administrator/Owner of Wood Oaks, Inc. and Autumn Woods, Inc.;
Eric F. Fink, Administrator of Whispering Oaks Health Care Center, Inc.;
Jean Summers, Vice President of Operations for Americare;
Darren L. Redd, Vice President of Blue Castle of the Ozarks, Inc.;
Gary Boggs and Cecile Boggs, Owner of Lakeshores Residential Care Facility;
Sandra Rutherford, Administrator of Lakeshores Residential Care Facility;
Bruce Hillis, Vice President of RH Montgomery Properties, Inc.;
Ali Chaudhry, Owner/Operator of Sabbath Manor, Country and Fontainbleu;
Michelle Redd, Administrator of Blue Castle of the Ozarks, Inc.;
Virginia Mincks, LPN, Blue Castle of the Ozarks, Inc.;
Lanora Porterfield, Director of Nursing at Bolivar Manor House; and
Michele Vinson, Administrator of Bolivar Manor House commented that subsection (4)(H) adds "services to be provided, and the outcomes expected for the resident" to the definition of what is required in the individual service plan. This exceeds statutory authority and should be limited to the statutory language. In addition, this definition is different than how the department defined this term in 19 CSR 30-83.010(22).

RESPONSE AND EXPLANATION OF CHANGE: The department agrees in part with this comment. The department has revised subsection (4)(H) to include the word "care" in order to make (4)(H) consistent with the definition of the term in 19 CSR 30-83.010. The department disagrees in part with this comment. The intent of the regulation is to ensure that the ISP is a useful tool for staff and residents. Identifying expected outcomes entails a process of developing, implementing and evaluating the progress and effectiveness of the ISP. This process does not conflict with the statutory components of the ISP. No changes have been made to the rule as a result of this part of the comment. However, changes have been made as indicated in the "Explanation of Additional Changes" for this section.

COMMENT: The definition of significant change in subsection (4)(L) is too broad. A change includes giving an aspirin for a headache. "Significant change" is defined as "a change" and hence is no longer "significant." A change requiring an adjustment or modification in residents' services encompasses even the slightest change in services which occurs daily. Use the definition consistently throughout long-term care continuum, thereby defining the term as it is defined in the Minimum Data Set (MDS)

RESPONSE AND EXPLANATION OF CHANGE: The department agrees that the definition of significant change in subsection (4)(L) requires clarification and has revised the definition in order to clarify that significant change means any change in the resident's physical, emotional or psychosocial condition or behavior that will not normally resolve itself without further intervention by staff or by implementing standard disease-related clinical interventions, that has an impact on more than one (1) area of the resident's health status, and requires interdisciplinary review or revision of the individualized service plan, or both.

COMMENT: Keep the current wording in RCF II rules in section (6) ". . . assure that they receive appropriate care." Facilities cannot guarantee that residents receive "care appropriate to their needs." Residents, being citizens and individuals may refuse to receive appropriate care. Facilities do not have control of their finances, and cannot ensure that they accept or pay for the care that would be appropriate "to their needs." Reword the last sentence of this section to reflect the wording contained in assisted living legislation section 198.073.4(1) provides for or coordinates oversight and services to meet the need of residents as documented in a written contract signed by the resident, or legal representative of the resident.

RESPONSE: The department does not agree. The facility has healthcare oversight for all residents and their care. Assisted living facility legislation, (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006)) requires the assisted living facilities to provide a social model of care. Section 198.006(24), RSMo (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006)) defines social model of care as "long-term care services based on the abilities, desires, and functional needs of the individual delivered in a setting that is more home-like than institutional and promotes the dignity, individuality, privacy, independence, and autonomy of the individual. . . ." Thus, the statutory language serves as authority for requiring assisted living facilities to provide care appropriate to residents' needs. No change has been made to the rule as a result of this comment. However, changes have been made as indicated in the "Explanation of Additional Changes" for this section.

COMMENT: Limiting the number of consecutive thirty (30)-day absences violates the Family Medical Leave Act (FMLA).

RESPONSE: The department does not agree with this comment. The rule does not prevent an administrator from taking leave as provided in the FMLA. Rather, facilities would need to substitute a temporary licensed administrator during periods when the administrator is on FMLA leave. No change has been made to the rule as a result of this comment.

COMMENT: Revise ". . . No person who is listed on the department Employee Disqualifications List (EDL) shall be employed by [work or volunteer in] the facility in any capacity [whether or not employed]. . ." in section (13). This is based on section 660.315, RSMo, which states "No person, corporation, or association who received the employee disqualification list under subsection 11 of this section shall knowingly employ any person who is on the employee disqualification list." Adding "work" goes beyond the statutory authority of the department.
RESPONSE: The department does not agree with making this word change. The department interprets the term "employ" in section 660.315, RSMo to include both paid and unpaid persons who perform work in a facility. No change has been made to the rule as a result of this comment. However, changes have been made as indicated in the "Explanation of Additional Changes" for this section.

COMMENT: Insert the following "Personnel who are known to have been diagnosed. . ." in section (18). We are only able to respond to information disclosed by our employees, or make the requirement that the employee inform the employer, otherwise we have no ability to access their health care records.
RESPONSE: The department disagrees that this word change is necessary. No change has been made to the rule as a result of this comment.

COMMENT: In subsection (29)(A) ". . . the social and recreational preferences in accordance with the individualized service plan . . ." is not in the statute. Section 198.073.4(1), RSMo (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006)) specifically states what the facility must provide and coordinate. The words underlined above do not appear in the statute. We propose removing that provision.
RESPONSE: The department disagrees. Individualized care, including providing or coordinating services to meet the social and recreational preferences of a resident, is part of a social model of care, which is required by the assisted living facility legislation, section 198.006(24), RSMo (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006)). No change has been made to the rule as a result of this comment.

COMMENT: Referencing a future form in subsection (29)(D) does not allow the industry to have input on the form itself. The form will dictate the amount of staff time needed to complete and the relevancy to the individuals needs. The statute requires a pre-move in screening to be conducted, but the form should be promulgated separately giving the industry a chance to comment. This gives authorization to an unknown.
RESPONSE AND EXPLANATION OF CHANGE: The department agrees and has revised subsection (29)(D) deleting reference to this form.

COMMENT: Referencing a future form in paragraph (29)(F)2. does not allow the industry to have input on the form itself. The form will dictate the amount of staff time needed to complete and the relevancy to the individuals needs. The statute requires a Resident Assessment Form, but the form should be promulgated separately giving the industry a chance to comment. This gives authorization to an unknown. Also, it uses the term "Resident Assessment Form" in lieu of the "community based assessment" term used by the statute. Change the term, or clarifying that the "resident assessment form" is for the community based assessment.
RESPONSE AND EXPLANATION OF CHANGE: The department agrees and has revised paragraph (29)(F)2. deleting the July 1, 2009 date.

COMMENT: The individualized service plan by statute is required to outline the "needs and preferences of the resident." We suggest placing a period after the word "resident" and deleting the remainder of that sentence in subsection (29)(G).
RESPONSE: The department does not agree. Individualized care is part of a social model of care. No change has been made to the rule as a result of this comment. However, changes have been made as indicated in the "Explanation of Additional Changes" for this section.

COMMENT: Remove subsections (33)(A), (B) and (C) entirely. As related to this section, the statute requires one (1) of two (2) requirements. If the person has been placed in the facility by the Department of Mental Health (DMH), the services to be provided are included in the contract. Other services are already provided by other DMH contractors and serve the residents by coming to the facility. The second type of resident is one (1) who is not placed by DMH and therefore the assisted living facility legislation makes it clear that the facility (section 198.073.4(1), RSMo) shall provide "services to meet the needs of the resident as documented in a written contract."
RESPONSE: The department disagrees with this comment. The facility has healthcare oversight for all residents and their care. No changes have been made to the rule as a result of this comment.

COMMENT: Eliminate subsection (B) of section (33). This goes beyond the scope of statute. Furthermore, subsections (33)(A) and (B) are case worker services for which DMH already pays Citizens Memorial Health Care facility (CMHC) to come to our facilities and coordinate this care. Assisted living facilities do not have the ability nor the license to perform and make those assessments required in subsection (33)(A) since we are not licensed to practice medicine, nor diagnose mental health illnesses.
RESPONSE: The department disagrees with this comment. The facility has healthcare oversight for all residents and their care. No changes have been made to the rule as a result of this comment.

COMMENT: Eliminate section (35) and replace with current RCF II rules. These changes go beyond the intent of statute. This references hospital rules. The current long-term care rules have worked successfully and no bad outcomes have resulted from that rule.
RESPONSE: The department disagrees. Sections 192.138 and 192.139, RSMo require medical facilities and nursing homes to report contagious or infectious diseases. Section 192.139, RSMo requires that reporting requirements be in accordance with recommendations established by the federal Centers for Disease Control. No change has been made to the rule as a result of this comment.

COMMENT: Section (38) is overly broad and vague. The existing rule requires appropriate action and notification in situations where something actually happens: "a serious illness, accident, or death." The proposed amendment actually requires the facility to act not only when such incidents actually occur, but also when there is the mere potential that they might occur. Requiring a facility to act when a behavior "may potentially pose a threat" would require the facility to respond, literally, to everything. All behavior may have the potential to pose a threat of injury or illness; this rule requires facilities to respond to behavior that is three (3) or four (4) steps away from actually causing a problem. Facilities cannot predict the future and should not be held responsible for divining the merely possible consequences of behavior. The imposition of such a standard would be unconstitutional. In the response provided by the department to our comments on this issue when first proposed last year, they stated, "Section (44) requires that the facility use reasonable judgment as to behaviors, which may potentially pose a threat. If a resident displays threatening behavior(s) toward him/herself or others, the facility should not wait until someone is harmed to notify a guardian or placement authority (which may be a parole officer, court or mental health provider, etc.)." The fact that the department used "display threatening" to describe "may potentially pose" demonstrates our

point. Based upon the department's response, it appears the department believes "Displays threatening" is synonymous with "may potentially pose a threat." They have different meanings.
RESPONSE: The department disagrees with this comment. Section (38) requires that the facility use reasonable judgment as to behaviors, which may potentially pose a threat. If a resident displays threatening behavior(s) toward him/herself or others, the facility should not wait until someone is harmed to notify a guardian or placement authority (which may be a parole officer, court or mental health provider, etc.) It is the department's position that such judgment constitutes protective oversight and that section 198.076, RSMo gives the department the authority to establish such a rule concerning the "health and welfare of residents" in assisted living facilities. No change has been made to the rule as a result of this comment. However, changes have been made as indicated in the "Explanation of Additional Changes" for this section.

COMMENT: Section (40) should be revised as ". . . medications shall not be administered by facility staff [used] unless a pharmacist..." In addition we believe including class II violation when previous rules were only a class II violation is arbitrary.
RESPONSE: The department disagrees with the recommended text changes. Additionally, the department disagrees with the recommended classification changes. The department believes that section (40) should be classified as a II/III rather than simply a III, since failure to examine unsealed medications could result in injury to a resident. No changes have been made to the rule as a result of this recommendation.

COMMENT: In subsection (44)(D) replace "licensed nurse" with "authorized facility medication staff member," as utilized in (44)(C) and (E) of this rule. we also believe this is in violation of state statute since the law allows many health care practitioners to provide the service in (44)(D).
RESPONSE: The department disagrees with this recommendation. Subsection (44)(D) relates to multiple doses and therefore requires at least a licensed nurse. No changes have been made to the rule as a result of this recommendation.

COMMENT: Conclude section (45) with first sentence following ". . . for the resident." Withholding personal property would be in violation of resident's rights.
RESPONSE: The department disagrees with this recommendation. Since this includes controlled substance medications, the authorization of a physician is required for release. No changes have been made to the rule as a result of this comment.

COMMENT: Add "or level I medication aide," after the word "technician" in subsection (48)(C).
RESPONSE AND EXPLANATION OF CHANGE: The department agrees and has amended subsection (48)(C) to include level I medication aides.

COMMENT: The Board of Nursing and Board of Healing Arts regulate the procedures these health care practitioners shall follow when administering medication and interacting with each other. The department has no authority to restrict a physician or nurse in administering medications based on a facility's "policy that provided recommendations and assessment parameters for the administration of such immunizations" as stated in paragraph (48)(F)1.
RESPONSE AND EXPLANATION OF CHANGE: The department has revised section (48) in order to clarify requirements for immunization screening requirements.

COMMENT: Why do immunizations have to be offered to the resident's designee or legally authorized representative as required by subparagraph (48)(F)1.B.?
RESPONSE AND EXPLANATION OF CHANGE: The department agrees that subparagraph (48)(F)1.B. is unclear as worded. The department has revised this subparagraph for clarity.

COMMENT: The meaning of paragraph (48)(F)3. is not understood which makes it impossible to comply.
RESPONSE AND EXPLANTION OF CHANGE: The department agrees that paragraph (48)(F)3. required revision for clarification and has done so.

COMMENT: Revise first sentence of section (55) by replacing "registered nurse" with "licensed nurse," or any other health care practitioner who is licensed in the state which has a scope of practice including medication review. These rules should not confine these healthcare activities to exclude other practitioners allowed in their practice act by law to also conduct these services (for example, physicians and PAs).
RESPONSE: The department disagrees that a licensed practical nurse is able to make the required assessment to review residents' medication regimens. No changes have been made to the rule as the result of this comment. However, changes have been made as indicated in the "Explanation of Additional Changes" for this section.

COMMENT: Previous rule imposes a class II/III violation and section (58) moves the violation to a class I violation. This is a major difference when invoking a class I violation. This is arbitrary.
RESPONSE AND EXPLANATION OF CHANGE: The department agrees this statutory requirement should be classified as a Class II and has changed section (58) accordingly.

COMMENT: Subsection (59)(B) requires the facility to record behaviors that pose or have posed or could potentially result in injuries. This amendment is inappropriate. Requiring a facility to act when a behavior "may potentially pose a threat" would require the facility to respond, literally, to everything. Recording accidents that potentially could result in injury, but do not result in injury, would include circumstances such as a resident bumping into another resident, a chair, or a wall. Each of theses could have resulted in an injury, but did not. This happens frequently. Place "." after the words "outside services."
RESPONSE: The department does not agree with the comment or with suggested text changes. The facility has healthcare oversight for all residents and their care. Section (38) of this rule requires that the facility use reasonable judgment as to behaviors, which may potentially pose a threat. Subsection (59)(B) requires that if a resident displays threatening behavior(s) toward him/herself or others, the facility must document that behavior in order to make it part of the resident's record for other staff and the resident's physician to be made aware of. It is the department's position that such judgment constitutes protective oversight and that section 198.076, RSMo gives the department the authority to establish such a rule concerning the "health and welfare of residents" in assisted living facilities. No change has been made to the rule as a result of this comment. However, changes have been made as indicated in the "Explanation of Additional Changes" for this section.

COMMENT: Subsection (62)(A) establishes an arbitrary minimum in light of the fact that the current rule allows for night shift to contain a 1 to 25 ratio and it has worked well for the tens of years that it has been in place. This rule already requires an evacuation standard for assisted living facilities that is more stringent, therefore, requiring a higher functioning resident, than RCF II standards. Previously licensed RCF IIs are allowed to a 1 to 25 ratio on night shifts, and believe the same should be allowed for assisted living facilities that choose not to care for people that cannot exit without minimal assistance. This provision is the major cost driver in this rule.
RESPONSE: The department disagrees that residents in assisted living facilities will necessarily be able to function at a higher level than

those in residential care facilities. These minimal standards reflect the higher acuity of residents allowed in an assisted living facility and also reflect the statutorily required social model of care setting, which requires the facility to provide care services based on abilities, desires, and functional needs of each resident delivered in a setting that promotes the dignity, individuality, privacy, independence, and autonomy of the individual. More staff will be required. 19 CSR 30-86.047(29)(B) requires, "Has 24 hour staff appropriate in numbers and with appropriate skills to provide such services." No change has been made to the rule as a result of this comment. However, changes have been made as indicated in the "Explanation of Additional Changes" for this section.

COMMENT: On-the-job training should be allowed for the training required by subsection (66)(A). People that reside in facilities licensed under 19 CSR 30-86.047 must be able to transfer independently without assistance to an exit, therefore, these residents need minimal assistance with transfer unless associated with bathing or toileting. These types of transfers currently are allowed in RCFs with on-the-job training and no classroom hours required.
RESPONSE: The department does not agree that the requirement should be exclusively on-the-job training. The acuity level of assisted living facility residents may be higher than in residential care. The Level I medication aide training course does not provide training regarding transferring residents. No change has been made to the rule as a result of this comment.

COMMENT: Barbara L. Miltenberger of Husch & Eppenberger, LLC., commented that paragraph (4)(J)4. defines actions that are not considered to be minimal assistance. This paragraph should also include "assistance to transfer from a bed or chair." In the event of a fire or disaster, anyone who requires assistance with transferring from a sitting to a standing position should be included in the persons who require more than minimal assistance.
RESPONSE: The department disagrees with this recommendation. Assisted living facility legislation, CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006), does not restrict any assisted living facility from admitting or retaining an individual needing assistance of one (1) person to physically assist with transferring from bed to chair. Further, the intervention of assisting an individual from his or her bed to a wheelchair is a one (1)-time intervention and unlike the interventions listed in (4)(J)5., which are ongoing interventions. Assistance to traverse down stairs requires the staff member to remain with the individual while he or she descends the stairs. Assistance to open a door requires the staff person to go to the door with the resident. Assistance to propel a wheelchair requires the staff member to remain with the individual until he or she has evacuated the facility. These actions restrict the staff member from leaving that resident and assisting others. The intervention of assistance to transfer is completed once the individual is in his or her chair allowing the staff member to assist other residents. No change has been made to the rule as the result of this comment.

COMMENT: Section (8) states that the administrator may serve as an administrator in five (5) facilities within a fifty (50)-mile radius and licensed for no more than one hundred (100) residents total. Section (8) changes the current law allowing the same administrator to serve in only four (4) facilities in a thirty (30) mile radius, which has been the law since at least February 2004. The department has provided no rationale for why it will be safer for an administrator to be in more facilities a farther distance apart when all of the facilities may be providing care to residents with greater care needs who cannot exit the building with only minimal assistance. This proposed regulation flies in the face of common sense. Instead, it appears to be an arbitrary and capricious change to the detriment of the residents' safety.

This section fails to recognize the different acuity levels of residents who now may reside in assisted living facilities. Allowing an administrator to serve in five (5) homes caring for residents who may be receiving hospice care, are bed-bound, require skilled nursing care, exhibit exit-seeking behaviors or require two (2) people for bathing and transferring, places all residents at great risk. Under this section, the administrator could be at a facility only one (1) day a week. The physical condition of residents in debilitated condition can decline significantly in a week. Regardless of the number of beds, an administrator should not be able to be the administrator of more than two (2) facilities if either facility takes residents who require the higher level of care such that the resident cannot exit the building with only minimal assist.
RESPONSE: The requirement allows multiple facilities in a thirty (30)-mile radius only, not a fifty (50)-mile radius. This mileage radius requirement has not changed from previous rule. The department does recognize the increased acuity level of the residents served by the assisted living facility, but has increased the number of facilities allowed in order to encourage smaller facilities, which are more home-like by virtue of size than large facilities. Additionally, despite increasing the number of allowed facilities, the total number of licensed beds has not increased. Lastly, the department has in 19 CSR 30-86.047(67) required that the administrator not be counted in staffing in a facility of more than sixty (60) residents. This requirement had been one hundred (100) residents for residential care facilities II. No change has been made to the rule as a result of this comment.

COMMENT: Subsection (29)(B) requires the assisted living facility to have twenty-four (24) hour staff appropriate in numbers with appropriate skills to provide such services. There is no provision in this section or any other that takes into account the acuity of the resident. This section fails to address even minimal staffing needs when the assisted living facility provides care for individuals receiving hospice care who are bed-bound and require skilled nursing services. When this ill-defined staffing standard is coupled with the lack of training for staff caring for residents with increased care needs, it is clear that the proposed regulation fails to provide sufficient protections to these residents. The department has offered no valid explanation why the previous standard of counting residents with greater needs as more than one (1) resident for staffing minimums is no longer appropriate or why the care needs of residents with cognitive, physical or other impairments do not need as great a protection now as they did before August 28, 2006. We urge the department to provide at least minimal direction to assisted living facilities on what staff is "appropriate" to care for these higher acuity residents.
RESPONSE: The department no longer has statutory authority to require the previous standard of counting every resident who requires more than minimal assistance as three (3) residents when determining staffing. Assisted living facility legislation, CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006), which became effective August 28, 2006 specifically deleted the authority to count every impaired resident as three (3) residents when determining staffing. Staffing ratios are minimum standards. Assisted living facilities are required to meet the needs of residents. No change has been made to the rule as a result of this comment.

COMMENT: Paragraphs (29)(F)2–4. state that the assisted living facility shall complete a community based assessment conducted by an appropriately trained and qualified individual and that until July 1, 2009, an assisted living facility can use its own form if approved by the department. Under this section there is the potential of having three hundred fifty (350) different standards of assessment, i.e., one for every licensed assisted living facility. Not only will this create a heavy administrative burden on the department by preventing development of a uniform set of procedures to evaluate a uniform common assessment tool, it will create inconsistent results between similarly licensed facilities using a slightly different measure of compliance. Use of the uniform assessment tool created by the department will avoid both results. Thus, we believe that the department

should require the use of a standard, uniform assessment tool for all assisted living facilities. This would create a uniform standard and avoid confusing residents, families, staff, providers, and regulators. Furthermore, because the community assessment tool forms the basis for care provided in an assisted living facility, the tool must be comprehensive, uniform and universally required. The department has articulated no reason why it should take almost three (3) years to develop a community based assessment tool it will require all assisted living facilities to use when it has created one already.

In addition, this section does not identify who in the department will approve an individual assisted living facility's community based assessment tool. It is conceivable that the Regional Offices will be assigned this task. If so, there may be different standards throughout the state for these assessments. Since the assessments are the basis for the individual service plans and the platform for determining care, it is crucial that they are consistent throughout the state. This section should require a single form created by the department be used by all assisted living facilities.

RESPONSE AND EXPLANATION OF CHANGE: The department disagrees with this recommendation. Assisted living facility legislation, CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006), does not give the department authority to require all assisted living facilities to use the same community based assessment tool. An individual in the department's Planning and Development unit is charged with reviewing assessment tools. The department does not believe this needs to be designated in rule. The department has revised section (29) in order to clarify requirements regarding the community based assessment tool.

COMMENT: Paragraph (29)(G)3. states that for residents who require hospice care, the individual service plan shall outline the care requirements and coordination of care. This section does not make any additional requirements of the assisted living facility regarding hospice care. Assisted living facilities may admit or retain residents who have elected hospice care and who may be bed-bound or require skilled nursing care. Assisted living facility legislation page 12, lines 194–198. A hospice provider generally has a nurse and an aide care for the resident on a routine basis, but it could be only once or twice a week, and only for short periods of time. A hospice service does not provide around-the-clock skilled nursing care. When this section is read in conjunction with section (47) of this proposed regulation, an assisted living facility might have only one (1) licensed nurse eight (8) hours a week, even though the assisted living facility could have up to thirty (30) residents receiving hospice services, including skilled nursing services and be bed-bound. There is no provision in this section or any other that addresses this area that is of critical concern for these hospice care residents. The department gives no guidance as to who is responsible for care between the hospice provider and the assisted living facility. The assisted living facility must be responsible by specific regulation for assuring that all third party providers are providing the care required. Merely alluding to care that may be provided by a third party provider in the resident's individual service plan is not sufficient notice to the assisted living facilities of their specific obligations for assuring appropriate care is provided for all of the residents' needs.

Hospice residents often have reduced nutrition and hydration, leading to skin breakdown and poor oral hygiene. This section and regulation fail to include any additional training to the assisted living facility staff that currently provide care to residents who are fairly independent in their activities of daily living, including feeding themselves. This section does not address training regarding turning the immobile resident every two (2) hours, to assess the resident's mouth for cracked lips and sores; and how to position the resident to safely provide food and water.

The only reference to hospice, other than the ability to admit or retain hospice residents who require skilled care and who are immobile, is found in the section. There must be some regulations addressing what care is expected of the assisted living facility when it agrees to accept or retain a resident on hospice. If the resident requires skilled nursing care, the assisted living facility must provide that care or be responsible for assuring that the care is provided. Without minimal standards, the persons at the end of their lives may suffer needlessly. There should be a more specific section relating only to hospice residents that requires additional staffing, training, and addressing how the residents' additional care and safety needs (such as how to safely evacuate a bed-bound patient) will be addressed by assisted living facilities. Without such minimal standards, these residents who are in the last stages of their lives will be placed in greater danger of inadequate care and at a greater risk of injury or death in the event of a fire or disaster.

Also, the regulations should specify that any assisted living facility with more than thirty percent (30%) occupancy by residents who are unable to evacuate unassisted or with only minimal assistance or with more than five percent (5%) of residents on hospice should be surveyed with a full survey, not an interim survey, at least every six (6) months to assure these vulnerable, elderly persons receive appropriate care.

Regulations addressing these issues are vital to the safety of the elderly residing in the assisted living facilities providing a higher level of care than was provided prior to August 28, 2006.

RESPONSE: Paragraph (29)(G)3. requires for residents who require hospice care, the individual service plan shall outline the care requirements and coordination of care. The department disagrees that this rule does not address further the needs of residents receiving licensed hospice care. Section (11), subsection (29)(A), sections (31) and (37) provide additional requirements. Additionally, the staffing requirements and ratios at section (62) are minimum requirements. Assisted living facilities must staff according to individualized needs of residents. The department does not have statutory authority to specify two (2) full inspections yearly based only on the fact that the assisted living facility has more than thirty percent (30%) occupancy by residents who require more than minimal assistance to evacuate or based on more than five percent (5%) census being residents who have elected to use licensed hospice care. No change has been made to the rule as a result of these comments.

COMMENT: Subsection (29)(H) requires assisted living facilities to develop and implement a plan to protect the rights, privacy, and safety of all residents. Nowhere in this section or any other section is addressed the responsibility of the assisted living facility to coordinate and evaluate care provided by outside services if the assisted living facility cannot provide the services, but the resident and facility agree the resident can remain in the facility. For example, the attorney-in-fact agrees that a resident with dementia should stay in the assisted living facility and agrees that a home health agency person will assist the resident in feeding because the resident is very slow or gets distracted and needs encouragement. The proposed regulation does not provide for any oversight of the contracted agency personnel or how the assisted living facility will assure that the care is provided. This omission is especially egregious when the resident elects hospice care. Without such safeguards, the resident may go without necessary care and services. Such safeguards must be added to the proposed regulation.

RESPONSE: The department does not agree with this comment. Section (31) requires that the physician also agree the resident's needs can be met in the facility. Section (11) requires that the facility shall not admit or continue to care for residents whose needs cannot be met. If necessary services cannot be obtained in or by the facility, the resident shall be promptly referred to appropriate outside resources or discharged from the facility. Additionally, subsection (29)(A) requires, "The facility may admit or retain an individual for residency in an assisted living facility only if the individual does not require hospitalization or skilled nursing placement as defined in this rule, and only if the facility: (A) Provides for or coordinates oversight and services to meet the needs, the social and recreational preferences in accordance with the individualized service plan of the resident as documented in a written contract signed by the resident, or

legal representative of the resident." No changes have been made to the rule as a result of this comment.

COMMENT: Section (47) also states that the facility shall employ a licensed nurse eight (8) hours per week for every thirty (30) residents to monitor each resident's condition and medication. This section bases the hours that a licensed nurse must be in the assisted living facility on the number of residents in the facility. However, this does not take into account the acuity of the residents. For example, an assisted living facility could have thirty (30) residents who receive hospice care and still have only one (1) licensed nurse employed only eight (8) hours per week. A method to better protect the public's welfare and safety would be to require that the licensed nurse's hours be based on the care and services required by the resident, such as requiring any assisted living facility that accepts or retains a resident with skin breakdown greater than a Stage II, who is bed-bound or who requires skilled nursing services shall have a licensed nurse on staff forty (40) hours per week or have arrangements with an outside agency to have a licensed nurse in the facility, not just on call, forty (40) hours per week. The staffing hours of a licensed nurse should increase with the number of residents with a higher acuity. If assisted living facility residents elect hospice care and need skilled nursing care, and the assisted living facility agrees to admit or retain the residents, the assisted living facility must be required to provide or arrange for the necessary skilled nursing care. Otherwise, these assisted living facility residents' health and safety will be put at great risk and harm.
RESPONSE: The department does not agree with this comment. The staffing ratios provide minimum requirements. Assisted living facilities are required by rule to staff according to the individualized needs of the residents. No change has been made to the rule as a result of this comment. However, changes have been made as indicated in the "Explanation of Additional Changes" for this section.

COMMENT: Section (47) allows level I medication aides to provide medications in an assisted living facility, regardless of the acuity of the residents in the facility. Thus, this section allows level I medication aides to provide medications to residents with co-morbid disease processes, who require hospice and skilled care. The purpose of the Level I Medication Aide Training Program was to "prepare individuals for employment as level I medication aides in residential care facilities (RCFs) I and II. The program shall be designed to teach skills and medication administration of nonparenteral medications in order to qualify students to perform this procedure only in RCFs I and II in Missouri." 19 CSR 30-84.030(1) (emphasis added). 19 CSR 30-84.030 was effective January 30, 1999. It was drafted when residents in RCFs I and II did not require the higher level of care required by residents allowed to be admitted or retained in assisted living facilities under this section and the proposed rule. As noted previously in this letter, 19 CSR 30-84.030 as amended does not contain any substantive changes to the course curriculum to address the increased acuity of the assisted living facility residents. Until such time as the program is revised to address the heightened medical needs of the residents who could be living in assisted living facilities, we believe it is prudent for the department to require that any assisted living facility taking the higher care residents be required to use a certified medication technician (as is required in skilled nursing facilities and who received more extensive training) for those residents.
RESPONSE: The department does not agree with this comment. The staffing ratios are minimum requirements. Assisted living facilities are required by rule to staff according to the individualized needs of the residents. Both level I medication aides and certified medication technicians are allowed to administer only those types of medications for which they have been trained in the department approved level I medication aide and certified medication technician courses respectively. Level I medication aides and certified medication aides administer medications under the license of the licensed nurse. Since facility is required to staff according to residents' needs, the facility is required to have licensed nursing staff available to administer medications for which certified staff are not appropriately trained to administer. No change has been made to the rule as a result of this comment.

COMMENT: Section (62) provides minimum staffing standard that is only slightly higher than the standards for an RCF (from 7 a.m. to 2 p.m. the hours are exactly the same)(compare 19 CSR 30-86.043(24)). This section has a catch-all phrase that these minimum standards may not meet the needs of residents as outlined in their assessments and individualized service plans. Since this proposed regulation also applies to residents who cannot safely exit the building with only minimal assistance, it is clear that as written, the minimal standards will not meet the current regulation that is being amended. In the current regulation, any resident is counted as three (3) residents to determine the facility's staffing needs. This staffing requirement made sense from a safety perspective because it recognized that more staff would be needed to assist residents out of the building in the event of a fire or disaster.
RESPONSE: The department disagrees with this comment. Assisted living facility legislation, CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006), which became effective August 28, 2006 specifically deleted the authority to count each impaired resident as three (3) residents when determining staffing. Staffing ratios are minimum standards and may not meet the needs of residents. Assisted living facilities are required by rule to meet the needs of residents. No change has been made to the rule as a result of this comment. However, changes have been made as indicated in the "Explanation of Additional Changes" for this section.

COMMENT: No rationale has been provided as to why it is safe now to reduce the required minimal staffing from what the department previously proposed as minimal staffing standards for facilities caring for residents who could not safely evacuate the building with only minimal assistance. In fact, in its initial draft of this section and proposed regulation, the department included the requirement that every resident who needed more than minimal assistance to evacuate the building had to be counted as three (3) residents. This arbitrary change in the regulation goes against common sense and safety concerns, since it is expected that more facilities will be taking a greater number of residents who cannot exit the building safely unassisted. This change is inviting disaster to Missouri's most vulnerable citizens.

Those residents with the higher care needs should be counted as more that a typical person who is independent in most of his or her activities. The purpose of minimal standards is to provide a baseline for enough staff to address the needs of those residents requiring a higher level of care. Assisted living facilities will increase the acuity of their residents without any increase in staffing under the vague and nebulous standard that "these minimum standards may not meet the needs of residents as outlined in their assessments and individualized service plans." Without minimal standards that address those residents with heightened care needs, residents and families, let alone the department, cannot be assured that an assisted living facility will have sufficient staff to virtually eliminate any current regulatory requirements addressing the heightened care and safety needs of these residents. That is wrong and that the residents with higher needs should be counted as three (3) for minimal staffing requirements.
RESPONSE: The department disagrees with this comment. Assisted living facility legislation, CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006), which became effective August 28, 2006 specifically deleted the authority to count each impaired resident as three (3) residents when determining staffing. Staffing ratios are minimum standards and may not meet the needs of residents. Assisted living facilities are required by rule to meet the needs of residents. No change has been made to the rule as a result of this comment.

COMMENT: Section (63) provides minimum orientation standards. The requirement that staff be trained on a social model of care is only one (1) of ten (10) items to be covered in the two (2)-hour orientation. Even though the statute mandates that care be provided on this model rather than the medical model, the section relegates approximately twelve (12) minutes of training to this issue (the last of the ten (10) items listed in the orientation requirements). This minimal training is not sufficient to educate staff to a completely new model of care.
RESPONSE: The department disagrees with this recommendation. The facility is required to provide a social model of care. This person-centered care approach will require training, which should be based on the specific needs of staff. If staff require additional training, then the facility will be expected to provide it. No change has been made to the rule as a result of this comment.

COMMENT: Section (64) requires only three (3) hours of additional training for those staff who will provide direct care to residents who have dementia or cognitive impairment. As with the reduction in the staffing standards, this section greatly reduces the current training requirements of twenty-four (24) hours of training (classroom and on-the-job) on how to care for residents with dementia to three (3). The three (3) hours of training must include an overview of mentally confused residents, communicating with persons with dementia, behavior management, promoting independence in activities of daily living, techniques for creating a safe, secure and socially oriented environment, provision of structure, stability and sense of routine for residents based on their needs, and understanding and dealing with family issues. Again, no rationale has been offered to support this change in regulation and why all these subjects can now be taught sufficiently in three (3) hours when previously it required twenty-four (24). This section also removes the provision for on-the-job training, an essential component for learning to care for persons with dementia.

Furthermore, assisted living facilities will now be able to accept residents who are physically or otherwise impaired, in addition to mental impairment that prevents them from evacuating the building. There are no training requirements at all on caring for residents with these conditions. This section does not address the training necessary to care for residents with more significant care needs. Hence, rather than addressing, it minimizes it. The department has not articulated any reason why additional staffing and staff training are not necessary for residents who, because of mental, physical or other impairment, cannot safely evacuate an assisted living facility with only minimal assistance. Additional training must be required for other conditions that may impair safe evacuation.
RESPONSE: The department disagrees with this comment. Assisted living facility legislation, CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006), which became effective August 28, 2006 specifically deleted the previously required twenty-four (24) hours of training within the first thirty (30) days of employment. The department has included specific training requirements for dementia specific training and has required transfer training. No changes have been made to the rule as a result of this comment.

COMMENT: Subsection (66)(A) states that the facility shall ensure that all staff responsible for transferring residents shall be appropriately trained in transfer techniques. However, this section and the other section of the proposed regulation fail to address how often assisted living facility staff should assist residents requiring the assistance of two (2) to transfer. These residents may therefore be put in their chair in their room early in the morning and not have any pressure relief for the whole day. The regulation should be revised to address this concern.
RESPONSE: The department disagrees with this comment. Please refer to section (37) regarding care to meet the needs of residents and subsection (29)(C) regarding emergency evacuation. Section (66) requires minimum training. Facilities are required by (62)(A) to have adequate number and type of personnel and by subsection (29) (B) to have twenty-four (24) hour staff appropriate in numbers and with appropriate skills to provide such services. No changes have been made to the rule as a result of this comment.

COMMENT: The following scenario, which is legally possible under sections (62) through (66), demonstrates the inadequacy of this proposed regulation. Under the staffing ratios allowed in the proposed regulation, an assisted living facility could have twenty-two (22) residents with dementia and only one (1) staff person. If a fire developed, that one (1) staff person would be the only person to assist twenty-two (22) people who may not understand what the alarm means; may not know they need to get out of bed, put on shoes and exit the building; and not know where to go once they exit their rooms. And under the training requirements, this staff person may have had less than one (1) day's training on all of the following:

The department has provided no reason why there was a need to reduce the safety requirements for staffing and training. When these staffing and training requirements are compared to the staffing and staff training requirements that are removed from current regulation by these propose regulations (each person who cannot exit the building with only minimal assistance must count for three (3) people and twenty-four (24) hours classroom and on-the-job training solely on caring for residents with dementia), it is clear that these proposed regulations do not protect the public from immediate danger. The department has provided no reason why there was a need to reduce these safety requirements. In fact, earlier drafts of the proposed rule included the requirement that every resident who required more than minimal assistance to evacuate the building had to be counted as three (3) residents. Those former standards should be retained.
RESPONSE: Assisted living facility legislation, CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006), which became effective August 28, 2006 specifically deleted the authority to count every impaired resident as three (3) residents when determining staffing. Staffing ratios are minimum standards. Assisted living facilities are required by rule to meet the needs of residents. No change has been made to the rule as a result of this comment.

COMMENT: Carroll Rodriguez, Public Policy Director for Missouri Coalition of Alzheimer's Association Chapters commented that transfer and discharge procedures for all licensed facilities are addressed in 19 CSR 30-82.050 and calls for important consumer protections such as written notice of the reason for discharge or transfer and the right of the resident to an appeal. We recommend adding language referencing 19 CSR 30-82.050 to section (11).
RESPONSE: The department disagrees with the recommendation to reference 19 CSR 30-82.050. The intent of 19 CSR 30-86.047(11) is to require that facilities do not continue to retain residents whose needs cannot be met. Both 19 CSR 30-82.050 Transfer and Discharge Procedures and 19 CSR 30-88.010 Resident Rights, contain transfer and discharge requirements and apply to assisted living facilities. No change has been made to the rule as a result of this comment.

COMMENT: At a minimum, language should be added to section (25) requiring that at least one (1) staff, eighteen (18) or older, shall be on duty and awake at all times and be certified in cardiopulmonary resuscitation (CPR).
RESPONSE AND EXPLANATION OF CHANGE: The department agrees with the recommendation to revise section (25) to include: "At least one (1) staff member, age eighteen (18) or older, shall be on duty and awake at all times." The department does not agree with the recommendation to require at least one (1) cardiopulmonary resuscitation (CPR) certified employee to be on duty at all times. The facility is required to provide information to residents and their legal representatives regarding the services that can be provided by the facility. Additionally, the facility can meet the needs of

individuals wishing to have CPR by promptly contacting emergency medical services.

COMMENT: Language should be added to subsection (29)(G) that clarifies that the individualized service plan (ISP) is to be developed based on information from the community-based assessment and the physical examination by a licensed physician as required by section 198.073.7, RSMo CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006).

RESPONSE: The department disagrees with the need for changes. 19 CSR 30-86.047(29)(G) already requires the ISP to be based on information obtained in the community based assessment. Section 198.073.7, RSMo (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006)), requires an admission physical examination by a licensed physician and allows up to ten (10) days after admission for documentation of the physical examination to be on file. No change has been made to the rule as a result of this comment. However, changes have been made as indicated in the "Explanation of Additional Changes" for this section.

COMMENT: Section (63) requires only two (2) hours of orientation training for assisted living facilities, an inadequate allocation of time to cover the comprehensive list of topics. Additionally, no annual in-service training is required. The department should:

•Strike the required hours for orientation training and replace with language that facilities shall have a written plan for providing orientation training to new employees that includes at a minimum, training on the topics outlined in this rule. Orientation training should be completed prior to the first day of direct client contact;

•Add language requiring that annual in-service training that includes specific topics, including those outlined for orientation training. Consideration should be given to requiring ten (10) hours of annual in-service training, the same amount currently required of in-home service providers;

•Add to the list of training topics, understanding the common characteristics and conditions of the resident population served and understanding dementia;

•Add to the list of training topics philosophy of assisted living facilities.

RESPONSE AND EXPLANATION OF CHANGE: The department disagrees in part with this recommendation. This section is specific to orientation training. The department has added specific training requirements for dementia specific training. The department has also required a specific number of orientation hours. This required number is a minimum requirement. Assisted living facility legislation, CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006), which became effective August 28, 2006 specifically deleted the previously required twenty-four (24) hours of training within the first thirty (30) days of employment, which also included the on-the-job training hours related to the special needs, care and safety of residents with dementia. The department has added the statutorily required on-going training requirement to section (64).

COMMENT: Recommend adding requirements for annual in-service training regarding needs, care and safety of individuals with Alzheimer's disease and related dementias in section (64).

RESPONSE: The department disagrees with this recommendation. Section (64) is specific to orientation requirements. No change has been made to the rule as a result of this comment.

COMMENT: Additionally, there is a technical error in section (64) referencing section (65) instead of (63).

RESPONSE AND EXPLANATION OF CHANGE: The department agrees with this comment and has corrected the incorrect reference in section (64) in order to reference section (63).

EXPLANATION OF ADDITIONAL CHANGES: At the January 17, 2007 meeting, JCAR noted the department failed to respond to two (2) comments regarding the proposed rule. In accordance with the committee's direction, the department has added the comment and responded accordingly. Jorgen Schlemeirer and above-listed Missouri Assisted Living Association members commented that the responsibility for signing telephone and other verbal physician orders should be the physician's responsibility and not the facility's responsibility as stated in subsection (48)(E). In response to this comment and the JCAR meeting comments, the department revised subsections (48)(E) and (59)(C). Additionally, the committee noted that the department failed to respond to a comment from Mr. Schlemeirer and MALA members regarding section (37) regarding that residents receive care according to the ISP. The department has revised that section in response to those comments and comments at the JCAR meetings.

19 CSR 30-86.047 Administrative, Personnel and Resident Care Requirements for Assisted Living Facilities

(4) Definitions. For the purpose of this rule, the following definitions shall apply:

(H) Individualized service plan (ISP)—Shall mean the planning document prepared by an assisted living facility, which outlines a resident's needs and preferences, services to be provided, and the goals expected by the resident or the resident's legal representative in partnership with the facility;

(I) Keeping residents in place—Means maintaining residents in place during a fire in lieu of evacuation where a building's occupants are not capable of evacuation, where evacuation has a low likelihood of success, or where it is recommended in writing by local fire officials as having a better likelihood of success and/or a lower risk of injury;

(J) Minimal assistance—

1. Is the criterion which determines whether or not staff must develop and include an individualized evacuation plan as part of the resident's service plan;

2. Minimal assistance may be the verbal intervention that staff must provide for a resident to initiate evacuating the facility;

3. Minimal assistance may be the physical intervention that staff must provide, such as turning a resident in the correct direction, for a resident to initiate evacuating the facility;

4. A resident needing minimal assistance is one who is able to prepare to leave and then evacuate the facility within five (5) minutes of being alerted of the need to evacuate and requires no more than one (1) physical intervention and no more than three (3) verbal interventions of staff to complete evacuation from the facility;

5. The following actions required of staff are considered to be more than minimal assistance:

A. Assistance to traverse down stairways;

B. Assistance to open a door; and

C. Assistance to propel a wheelchair;

(L) Significant change—Means any change in the resident's physical, emotional or psychosocial condition or behavior that will not normally resolve itself without further intervention by staff or by implementing standard disease-related clinical interventions, that has an impact on more than one (1) area of the resident's health status, and requires interdisciplinary review or revision of the individualized service plan, or both;

(6) The operator shall be responsible to assure compliance with all applicable laws and regulations. The administrator shall be fully authorized and empowered to make decisions regarding the operation of the facility and shall be held responsible for the actions of all employees. The administrator's responsibilities shall include oversight of residents to assure that they receive care as defined in the individualized service plan. II/III

(7) The administrator cannot be listed or function in more than one (1) licensed facility at the same time unless he or she serves no more than five (5) facilities within a thirty (30)-mile radius and licensed to serve in total no more than one hundred (100) residents, and the administrator has an individual designated as the daily manager of each facility. However, the administrator may serve as the administrator of more than one (1) licensed facility if all facilities are on the same premises. II

(8) The administrator shall designate, in writing, a staff member in charge in the administrator's absence. If the administrator is absent for more than thirty (30) consecutive days, during which time he or she is not readily accessible for consultation by telephone with the delegated individual, the individual designated to be in charge shall be a currently licensed nursing home administrator. Such thirty (30)-consecutive-day absences may only occur once within any consecutive twelve (12)-month period. II/III

(9) The facility shall not care for more residents than the number for which the facility is licensed. However, if the facility operates a non-licensed adult day care program for four (4) or fewer participants within the licensed facility, the day care participants shall not be included in the total facility census. Adult day care participants shall be counted in staffing determination during the hours the day care participants are in the facility. II/III

(10) The facility shall not admit or continue to care for residents whose needs cannot be met. If necessary services cannot be obtained in or by the facility, the resident shall be promptly referred to appropriate outside resources or discharged from the facility. I/II

(11) All personnel responsible for resident care shall have access to the legal name of each resident, name and telephone number of resident's physician, resident's designee or legally authorized representative in the event of emergency. II/III

(12) All persons who have any contact with the residents in the facility shall not knowingly act or omit any duty in a manner that would materially and adversely affect the health, safety, welfare or property of residents. No person who is listed on the department's Employee Disqualification List (EDL) shall work or volunteer in the facility in any capacity whether or not employed by the operator. For the purpose of this rule, a volunteer is an unpaid individual formally recognized by the facility as providing a direct care service to residents. The facility is required to check the EDL for individuals who volunteer to perform a service for which the facility might otherwise have to hire an employee. The facility is not required to check the EDL for individuals or groups such as scout groups, bingo or sing-along leaders. The facility is not required to check the EDL for an individual such as a priest, minister or rabbi visiting a resident who is a member of the individual's congregation. However, if a minister, priest or rabbi serves as a volunteer facility chaplain, the facility is required to check to determine if the individual is listed on the EDL since the individual would have contact with all residents. I/II

(13) Prior to allowing any person who has been hired in a full-time, part-time or temporary employee position to have contact with any residents the facility shall, or in the case of temporary employees hired through or contracted from an employment agency, the employment agency shall prior to sending a temporary employee to a provider:

(A) Request a criminal background check for the person, as provided in section 43.540, RSMo. Each facility must maintain in its record documents verifying that the background checks were requested and the nature of the response received for each such request.

1. The facility must ensure that any applicant or person hired or retained who discloses prior to the receipt of the criminal background check that he/she has been convicted of, pled guilty or pled *nolo contendere* to in this state or any other state or has been found guilty of a crime, which if committed in Missouri would be a Class A or B felony violation of Chapter 565, 566, or 569, RSMo or any violation of subsection 198.070.3, RSMo or of section 568.020, RSMo, will not have contact with residents. II/III

2. Upon receipt of the criminal background check, the facility must ensure that if the criminal background check indicates that the person hired or retained by the facility has been convicted of, pled guilty or pled *nolo contendere* to in this state or any other state or has been found guilty of a crime, which if committed in Missouri would be a Class A or B felony violation of Chapter 565, 566, or 569, RSMo or any violation of subsection 198.070.3, RSMo or of section 568.020, RSMo, the person will not have contact with residents unless the facility obtains verification from the department that a good cause waiver has been granted and maintains a copy of the verification in the individual's personnel file. II/III

(B) Make an inquiry to the department, whether the person is listed on the employee disqualification list as provided in section 660.315, RSMo. The inquiry may be made via Internet at www.dhss.mo.gov/EDL/. II/III

(C) If the person has registered with the department's Family Care Safety Registry (FCSR), the facility may utilize the Registry in order to meet the requirements of subsections (13)(A) and (13)(B) of this rule. The FCSR is available via Internet at www.dhss.mo.gov/FCSR/BackgroundCheck.html. II/III

(D) For persons for whom the facility has contracted for professional services (i.e., plumbing or air conditioning repair) that will have contact with any resident, the facility must require a criminal background check or ensure that the individual is accompanied by a facility staff person while in the facility. II/III

(14) A facility shall not employ as an agent or employee who has access to controlled substances any person who has been found guilty or entered a plea of guilty or *nolo contendere* in a criminal prosecution under the laws of any state or of the United States for any offense related to controlled substances. II

(A) A facility may apply in writing to the department for a waiver of this section of this rule for a specific employee.

(B) The department may issue a written waiver to a facility upon determination that a waiver would be consistent with the public health and safety. In making this determination, the department shall consider the duties of the employee, the circumstances surrounding the conviction, the length of time since the conviction was entered, whether a waiver has been granted by the department's Bureau of Narcotics and Dangerous Drugs pursuant to 19 CSR 30-1.034 when the facility is registered with that agency, whether a waiver has been granted by the federal Drug Enforcement Administration (DEA) pursuant to 21 CFR 1301.76 when the facility is also registered with that agency, the security measures taken by the facility to prevent the theft and diversion of controlled substances, and any other factors consistent with public health and safety. II

(15) The facility must develop and implement written policies and procedures which require that persons hired for any position which is to have contact with any patient or resident have been informed of their responsibility to disclose their prior criminal history to the facility as required by section 660.317.5, RSMo. The facility must also develop and implement policies and procedures which ensure that the facility does not knowingly hire, after August 28, 1997, any person who has or may have contact with a patient or resident, who has been convicted of, plead guilty or *nolo contendere* to, in this state or any other state, or has been found guilty of any Class A or B felony violation of Chapter 565, 566 or 569, RSMo, or any violation of subsection 3 of section 198.070, RSMo, or of section 568.020, RSMo. II/III

(16) All persons who have or may have contact with residents shall at all times when on duty or delivering services wear an identification badge. The badge shall give their name, title and, if applicable, the status of their license or certification as any kind of health care professional. This rule shall apply to all personnel who provide services to any resident directly or indirectly. III

(17) Personnel who have been diagnosed with a communicable disease may begin work or return to duty only with written approval by a physician or physician's designee, which indicates any limitations. II

(18) The administrator shall be responsible to prevent an employee known to be diagnosed with communicable disease from exposing residents to such disease. The facility's policies and procedures must comply with the department's regulations pertaining to communicable diseases, specifically 19 CSR 20-20.010 through 19 CSR 20-20.100. II /III

(19) The facility shall screen residents and staff for tuberculosis as required for long-term care facilities by 19 CSR 20-20.100. II

(20) The administrator shall maintain on the premises an individual personnel record on each facility employee, which shall include the following:

(A) The employee's name and address;

(B) Social Security number;

(C) Date of birth;

(D) Date of employment;

(E) Documentation of experience and education including for positions requiring licensure or certification, documentation evidencing competency for the position held, which includes copies of current licenses, transcripts when applicable, or for those individuals requiring certification, such as certified medication technicians, level I medication aides and insulin administration aides; printing the Web Registry search results page available at www.dhss.mo.gov/cnaregistry shall meet the requirements of the employer's check regarding valid certification;

(F) References, if available;

(G) The results of background checks required by section 660.317, RSMo; and a copy of any good cause waiver granted by the department, if applicable;

(H) Position in the facility;

(I) Written statement signed by a licensed physician or physician's designee indicating the person can work in a long-term care facility and indicating any limitations;

(J) Documentation of the employee's tuberculin screening status;

(K) Documentation of what the employee was instructed on during orientation training; and

(L) Reason for termination if the employee was terminated due to abuse or neglect of a resident, residents' rights issues or resident injury. III

(21) Personnel records shall be maintained for at least two (2) years following termination of employment. III

(22) There shall be written documentation maintained in the facility showing actual hours worked by each employee. III

(23) No one individual shall be on duty with responsibility for oversight of residents longer than eighteen (18) hours per day. I/II

(24) Employees who are counted in meeting the minimum staffing ratio and employees who provide direct care to the residents shall be at least sixteen (16) years of age. One (1) employee at least eighteen (18) years of age shall be on duty at all times. II

(25) Each facility resident shall be under the medical supervision of a physician licensed to practice in Missouri who has been informed of the facility's emergency medical procedures and is kept informed of treatments or medications prescribed by any other professional lawfully authorized to prescribe medications. III

(26) The facility shall ensure that each resident being admitted or readmitted to the facility receives an admission physical examination by a licensed physician. The facility shall request documentation of the physical examination prior to admission but must have documentation of the physical examination on file no later than ten (10) days after admission. The physical examination shall contain documentation regarding the individual's current medical status and any special orders or procedures to be followed. If the resident is admitted directly from an acute care or another long-term care facility and is accompanied on admission by a report that reflects his or her current medical status, an admission physical shall not be required. III

(27) Residents under sixteen (16) years of age shall not be admitted. III

(28) The facility may admit or retain an individual for residency in an assisted living facility only if the individual does not require hospitalization or skilled nursing placement as defined in this rule, and only if the facility:

(A) Provides for or coordinates oversight and services to meet the needs, the social and recreational preferences in accordance with the individualized service plan of the resident as documented in a written contract signed by the resident, or legal representative of the resident; II

(B) Has twenty-four (24) hour staff appropriate in numbers and with appropriate skills to provide such services; II

(C) Has a written plan for the protection of all residents in the event of a disaster such as tornado, fire, bomb threat or severe weather, including:

1. Keeping residents in place;

2. Evacuating residents to areas of refuge;

3. Evacuating residents from the building if necessary; or

4. Other methods of protection based on the disaster and the individual building design; I/II

(D) Completes a premove-in screening conducted as required by section 198.073.4(4), RSMo (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006)). II

(E) The premove-in screening shall be completed prior to admission with the participation of the prospective resident and be designed to determine if the individual is eligible for admission to the assisted living facility and shall be based on the admission restrictions listed at section (29) of this rule; II

(F) Completes a community based assessment conducted by an appropriately trained and qualified individual as defined in section (4) of this rule:

1. Time frame requirements for assessment shall be:

A. Within five (5) calendar days of admission; II

B. At least semiannually; and II

C. Whenever a significant change has occurred in the resident's condition, which may require a change in services. II

2. The facility shall use form MO 580-2835, Assessment for Admission To Assisted Living Facilities, (9-06), incorporated by reference, provided by the Department of Health and Senior Services, PO Box 570, Jefferson City, MO 65102-0570 and which is available to long-term care facilities at www.dhss.mo.gov or by telephone at (573) 526-8548. This rule does not incorporate any subsequent amendments or additions; or II

3. The facility may use another assessment form if approved in advance by the department; II

(G) Develops an individualized service plan (ISP), which means the planning document prepared by an assisted living facility which outlines a resident's needs and preferences, services to be provided, and goals expected by the resident or the resident's legal representative in partnership with the facility; II

(H) Develops and implements a plan to protect the rights, privacy, and safety of all residents and to protect against the financial exploitation of all residents; and II

(I) Complies with the dementia specific training requirements of subsection 8 of section 660.050, RSMo. II

(29) The facility shall not admit or continue to care for a resident who:

(A) Has exhibited behaviors that present a reasonable likelihood of serious harm to himself or herself or others; I/II

(B) Requires physical restraint as defined in this rule; II

(C) Requires chemical restraint as defined in this rule; II

(D) Requires skilled nursing services as defined in section 198.073.4, RSMo for which the facility is not licensed or able to provide; II

(E) Requires more than one (1) person to simultaneously physically assist the resident with any activity of daily living, with the exception of bathing and transferring; or II/III

(F) Is bed-bound or similarly immobilized due to a debilitating or chronic condition. II

(30) The requirements of subsections (29)(D), (E) and (F) shall not apply to a resident receiving hospice care, provided the resident, his or her legally authorized representative or designee, or both, and the facility, physician and licensed hospice provider all agree that such program of care is appropriate for the resident. II

(31) Programs and Services Requirements for Residents.

(A) The facility shall designate a staff member to be responsible for leisure activity coordination and for promoting the social model, multiple staff role directing all staff to provide routine care in a manner that emphasizes the opportunity for the resident and the staff member to enjoy a visit rather than simply perform a procedure. II/III

(B) The facility shall make available and implement self-care, productive and leisure activity programs which maximize and encourage the resident's optimal functional ability for residents. The facility shall provide person-centered activities appropriate to the resident's individual needs, preferences, background and culture. Individual or group activity programs may consist of the following:

1. Gross motor activities, such as exercise, dancing, gardening, cooking and other routine tasks;

2. Self-care activities, such as dressing, grooming and personal hygiene;

3. Social and leisure activities, such as games, music and reminiscing;

4. Sensory enhancement activities, such as auditory, olfactory, visual and tactile stimulation;

5. Outdoor activities, such as walking and field trips;

6. Creative arts; or

7. Other social, leisure or therapeutic activities that encourage mental and physical stimulation or enhance the resident's well-being. II/III

(C) Staff shall inform residents in advance of any organized group activity including the time and place of the activity. II/III

(32) Requirements for Facilities Providing Care to Residents Having Mental Illness or Mental Retardation Diagnosis.

(A) Each resident who exhibits mental and psychosocial adjustment difficulty(ies) shall receive treatment and services to address the resident's needs and behaviors as stated in the individualized service plan. I/II

(B) If specialized rehabilitative services for mental illness or mental retardation are required to enable a resident to reach and to comply with the individualized service plan, the facility shall ensure the required services are provided. II

(C) The facility shall maintain in the resident's record the most recent progress notes and personal plan developed and provided by the Department of Mental Health or designated administrative agent for each resident whose care is funded by the Department of Mental Health or designated administrative agent. III

(33) No facility shall accept any individual with a physical, cognitive, or other impairment that prevents the individual from safely evacuating the facility with minimal assistance unless the facility meets all requirements of section 198.073, RSMo (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006)) and those standards set forth in 19 CSR 30-86.045. I/II

(34) The facility shall follow appropriate infection control procedures. The administrator or his or her designee shall make a report to the local health authority or the department of the presence or suspected presence of any diseases or findings listed in 19 CSR 20-20.020, sections (1)–(3) according to the specified time frames as follows:

(A) Category I diseases or findings shall be reported to the local health authority or to the department within twenty-four (24) hours of first knowledge or suspicion by telephone, facsimile, or other rapid communication;

(B) Category II diseases or findings shall be reported to the local health authority or the department within three (3) days of first knowledge or suspicion;

(C) Category III—The occurrence of an outbreak or epidemic of any illness, disease or condition which may be of public health concern, including any illness in a food handler that is potentially transmissible through food. This also includes public health threats such as clusters of unusual diseases or manifestations of illness and clusters of unexplained deaths. Such incidents shall be reported to the local authority or to the department by telephone, facsimile, or other rapid communication within twenty-four (24) hours of first knowledge or suspicion. I/II

(35) Protective oversight shall be provided twenty-four (24) hours a day. For residents departing the premises on voluntary leave, the facility shall have, at a minimum, a procedure to inquire of the resident or resident's guardian of the resident's departure, of the resident's estimated length of absence from the facility, and of the resident's whereabouts while on voluntary leave. I/II

(36) Residents shall receive proper care as defined in the individualized service plan. I/II

(37) In case of behaviors that present a reasonable likelihood of serious harm to himself or herself or others, serious illness, significant change in condition, injury or death, staff shall take appropriate action and shall promptly attempt to contact the person listed in the resident's record as the legally authorized representative, designee or placement authority. The facility shall contact the attending physician or designee and notify the local coroner or medical examiner immediately upon the death of any resident of the facility prior to transferring the deceased resident to a funeral home. I/II

(38) The facility shall encourage and assist each resident based on his or her individual preferences and needs to be clean and free of body and mouth odor. II

(39) If the resident brings unsealed medications to the facility, the medications shall not be used unless a pharmacist, physician or nurse examines, identifies and determines the contents to be suitable for use. The person performing the identification shall document his or her review. II/III

(40) Self-control of prescription medication by a resident may be allowed only if approved in writing by the resident's physician and included in the resident's individualized service plan. A resident may be permitted to control the storage and use of nonprescription medication unless there is a physician's written order or facility policy to the contrary. Written approval for self-control of prescription medication shall be rewritten as needed but at least annually and after any period of hospitalization. II/III

(41) All medication shall be safely stored at proper temperature and shall be kept in a secured location behind at least one (1) locked door

or cabinet. Medication shall be accessible only to persons authorized to administer medications. II/III

(A) If access is controlled by the resident, a secured location shall mean in a locked container, a locked drawer in a bedside table or dresser or in a resident's private room if locked in his or her absence, although this does not preclude access by a responsible employee of the facility.

(B) Schedule II controlled substances shall be stored in locked compartments separate from non-controlled medications, except that single doses of Schedule II controlled substances may be controlled by a resident in compliance with the requirements for self-control of medication of this rule.

(C) Medication that is not in current use and is not destroyed shall be stored separately from medication that is in current use. II/III

(42) All prescription medications shall be supplied as individual prescriptions except where an emergency medication supply is allowed. All medications, including over-the-counter medications, shall be packaged and labeled in accordance with applicable professional pharmacy standards, state and federal drug laws. Labeling shall include accessory and cautionary instructions as well as the expiration date, when applicable, and the name of the medication as specified in the physician's order. Medication labels shall not be altered by facility staff and medications shall not be repackaged by facility staff except as allowed by section (43) of this rule. Over-the-counter medications for individual residents shall be labeled with at least the resident's name. II/III

(43) Controlled substances and other prescription and non-prescription medications for administration when a resident temporarily leaves a facility shall be provided as follows:

(A) Separate containers of medications for the leave period may be prepared by the pharmacy. The facility shall have a policy and procedure for families to provide adequate advance notice so that medications can be obtained from the pharmacy.

(B) Prescription medication cards or other multiple-dose prescription containers currently in use in the facility may be provided by any authorized facility medication staff member if the containers are labeled by the pharmacy with complete pharmacy prescription labeling for use. Original manufacturer containers of non-prescription medications, along with instructions for administration, may be provided by any authorized facility medication staff member.

(C) When medications are supplied by the pharmacy in customized patient medication packages that allow separation of individual dose containers, the required number of containers may be provided by any authorized facility medication staff member. The individual dose containers shall be placed in an outer container that is labeled with the name and address of the facility and the date.

(D) When multiple doses of a medication are required and it is not reasonably possible to obtain prescription medication labeled by the pharmacy, and it is not appropriate to send a container of medication currently in use in the facility, up to a twenty-four (24)-hour supply of each prescription or non-prescription medication may be provided by a licensed nurse in United States Pharmacopeia (USP) approved containers labeled with the facility name and address, resident's name, medication name and strength, quantity, instructions for use, date, initials of individual providing, and other appropriate information.

(E) When no more than a single dose of a medication is required, any authorized facility medication staff member may prepare the dose as for in-facility administration in a USP approved container labeled with the facility name and address, resident's name, medication name and strength, quantity, instructions for use, date, initials of person providing, and other appropriate information.

(F) The facility may have a policy that limits the quantity of medication sent with a resident without prior approval of the prescriber.

(G) Returned containers shall be identified as having been sent with the resident, and shall not later be returned to the pharmacy for reuse.

(H) The facility shall maintain accurate records of medications provided to and returned by the resident. II/III

(44) Upon discharge or transfer of a resident, the facility shall release prescription medications, including controlled substances, held by the facility for the resident when the physician writes an order for each medication to be released. Medications shall be labeled by the pharmacy with current instructions for use. Prescription medication cards or other containers may be released if the containers are labeled by the pharmacy with complete pharmacy prescription labeling. II/III

(45) Injections shall be administered only by a physician or licensed nurse, except that insulin injections may also be administered by a certified medication technician or level I medication aide who has successfully completed the state-approved course for insulin administration, taught by a department-approved instructor. Anyone trained prior to December 31, 1990, who completed the state-approved insulin administration course taught by an approved instructor shall be considered qualified to administer insulin in an assisted living facility. A resident who requires insulin, may administer his or her own insulin if approved in writing by the resident's physician and trained to do so by a licensed nurse or physician. The facility shall monitor the resident's condition and ability to continue self-administration. I/II

(46) The administrator shall develop and implement a safe and effective system of medication control and use, which assures that all residents' medications are administered by personnel at least eighteen (18) years of age, in accordance with physicians' instructions using acceptable nursing techniques. The facility shall employ a licensed nurse eight (8) hours per week for every thirty (30) residents to monitor each resident's condition and medication. Administration of medication shall mean delivering to a resident his or her prescription medication either in the original pharmacy container, or for internal medication, removing an individual dose from the pharmacy container and placing it in a small cup container or liquid medium for the resident to remove from the container and self-administer. External prescription medication may be applied by facility personnel if the resident is unable to do so and the resident's physician so authorizes. All individuals who administer medication shall be trained in medication administration and, if not a physician or a licensed nurse, shall be a certified medication technician or level I medication aide. I/II

(47) Medication Orders.

(A) No medication, treatment or diet shall be administered without an order from an individual lawfully authorized to prescribe such and the order shall be followed. II/III

(B) Physician's written and signed orders shall include: name of medication, dosage, frequency and route of administration and the orders shall be renewed at least every three (3) months. Computer generated signatures may be used if safeguards are in place to prevent their misuse. Computer identification codes shall be accessible to and used by only the individuals whose signatures they represent. Orders that include optional doses or include *pro re nata* (PRN) administration frequencies shall specify a maximum frequency and the reason for administration. II/III

(C) Telephone and other verbal orders shall be received only by a licensed nurse, certified medication technician, level I medication aide or pharmacist, and shall be immediately reduced to writing and signed by that individual. A certified medication technician or level I medication aide may receive a telephone or other verbal order only for a medication or treatment that the technician or level I medication aide is authorized to administer. If a telephone or other verbal order is given to a medication technician or level I medication aide, an initial dosage shall not be administered until the order has been reviewed by telephone, facsimile or in person by a licensed nurse or

pharmacist. The review shall be documented by the reviewer co-signing the telephone or other verbal order. II

(D) The review shall be documented by the licensed nurse's or pharmacist's signature within seven (7) days. III

(E) The facility shall submit to the physician written versions of any oral or telephone orders within four (4) days of the giving of the oral or telephone order. III

(F) Influenza and pneumococcal polysaccharide immunizations may be administered per physician-approved facility policy after assessment for contraindications—

1. The facility shall develop a policy that provides recommendations and assessment parameters for the administration of such immunizations. The policy shall be approved by the facility medical director for facilities having a medical director, or by each resident's attending physician for facilities that do not have a medical director, and shall include the requirements to:

A. Provide education to each resident or the resident's designee or legally authorized representative regarding the potential benefits and side effects of the immunization; II/III

B. Offer the immunization to the resident or obtain permission from the resident's designee or legally authorized representative when the immunization is medically indicated unless the resident has already been immunized as recommended by the policy; II/III

C. Provide the opportunity to refuse the immunization; and II/III

D. Perform an assessment for contraindications; II/III

2. The assessment for contraindications and documentation of the education and opportunity to refuse the immunization shall be dated and signed by the nurse performing the assessment and placed in the medical record; or

3. The facility shall with the approval of each resident's physician, access screening and immunization through outside sources such as county or city health departments. II/III

(G) The administration of medication shall be recorded on a medication sheet or directly in the resident's record and, if recorded on a medication sheet, shall be made part of the resident's record. The administration shall be recorded by the same individual who prepares the medication and administers it. II/III

(48) The facility may keep an emergency medication supply if approved by a pharmacist or physician. Storage and use of medications in the emergency medication supply shall assure accountability. When the emergency medication supply contains controlled substances, the facility shall be registered with the Bureau of Narcotics and Dangerous Drugs (BNDD) and shall be in compliance with 19 CSR 30-1.052 and other applicable state and federal controlled substance laws and regulations. II/III

(49) Automated dispensing systems may be controlled by the facility or may be controlled on-site or remotely by a pharmacy.

(A) Automated dispensing systems may be used for an emergency medication supply.

(B) Automated dispensing systems that are controlled by a pharmacy may be used for continuing doses of controlled substance and non-controlled substance medications. When continuing doses are administered from an automated dispensing system that is controlled by a pharmacy, a pharmacist shall review and approve each new medication order prior to releasing the medication from the system. The pharmacy and the facility may have a policy and procedure to allow the release of initial doses of approved medications when a pharmacist is not available in lieu of a separate emergency medication supply. When initial doses are used when a pharmacist is not available, a pharmacist shall review and approve the order within twenty-four (24) hours of administration of the first dose.

(C) Automated dispensing systems shall be used in compliance with state and federal laws and regulations. When an automated dispensing system controlled by the facility contains controlled substances for an emergency medication supply, the facility shall be registered with the BNDD. When an automated dispensing system is controlled by a pharmacy, the facility shall use it in compliance with 20 CSR 2220-2.900. II/III

(50) Stock supplies of nonprescription medication may be kept when specific medications are approved in writing by a consulting physician, a registered nurse or a pharmacist. II/III

(51) Records shall be maintained upon receipt and disposition of all controlled substances and shall be maintained separately from other records, for two (2) years.

(A) Inventories of controlled substances shall be reconciled as follows:

1. Controlled Substance Schedule II medications shall be reconciled each shift; and II

2. Controlled Substance Schedule III–V medications shall be reconciled at least weekly and as needed to ensure accountability. II

(B) Inventories of controlled substances shall be reconciled by the following:

1. Two (2) medication personnel, one of whom is a licensed nurse; or

2. Two (2) medication personnel, who are certified medication technicians or level I medication aides, when a licensed nurse is not available. II

(C) Receipt records shall include the date, source of supply, resident name and prescription number when applicable, medication name and strength, quantity and signature of the supplier and receiver. Administration records shall include the date, time, resident name, medication name, dose administered and the initials of the individual administering. The signature and initials of each medication staff documenting on the medication administration record must be signed in the signature area of the medication record. II

(D) When self-control of medication is approved a record shall be made of all controlled substances transferred to and administered from the resident's room. Inventory reconciliation shall include controlled substances transferred to the resident's room. II

(52) Documentation of waste of controlled substances at the time of administration shall include the reason for the waste and the signature of another facility medication staff member who witnesses the waste. If a second medication staff member is not available at the time of administration, the controlled substance shall be properly labeled, clearly identified as unusable, stored in a locked area, and destroyed as soon as a medication staff member is available to witness the waste. When a second medication staff member is not available and the controlled substance is contaminated by patient body fluids, the controlled substance shall be destroyed immediately and the circumstances documented. II/III

(53) At least every other month, a pharmacist or registered nurse shall review the controlled substance record keeping including reconciling the inventories of controlled substances. This shall be done at the time of the drug regimen review of each resident. All discrepancies in controlled substance records shall be reported to the administrator for review and investigation. The theft or loss of controlled substances shall be reported as follows:

(A) The facility shall notify the department's Section for Long Term Care (SLTC) and other appropriate authorities of any theft or significant loss of any controlled substance medication written as an individual prescription for a specific resident upon the discovery of the theft or loss. The facility shall consider at least the following factors in determining if a loss is significant:

1. The actual quantity lost in relation to the total quantity;

2. The specific controlled substance lost;

3. Whether the loss can be associated with access by specific individuals;

4. Whether there is a pattern of losses, and if the losses appear to be random or not;

5. Whether the controlled substance is a likely candidate for diversion; and

6. Local trends and other indicators of diversion potential;

(B) If an insignificant amount of such controlled substance is lost during lawful activities, which includes but are not limited to receiving, record keeping, access auditing, administration, destruction and returning to the pharmacy, a description of the occurrence shall be documented in writing and maintained with the facility's controlled substance records. The documentation shall include the reason for determining that the loss was insignificant; and

(C) When the facility is registered with the BNDD, the facility shall report to or document for the BNDD any loss of any stock supply controlled substance in compliance with 19 CSR 30-1.034. II/III

(54) A physician, pharmacist or registered nurse shall review the medication regimen of each resident. This shall be done at least every other month. The review shall be performed in the facility and shall include, but shall not be limited to, indication for use, dose, possible medication interactions and medication/food interactions, contraindications, adverse reactions and a review of the medication system utilized by the facility. Irregularities and concerns shall be reported in writing to the resident's physician and to the administrator/manager. If after thirty (30) days, there is no action taken by a resident's physician and significant concerns continue regarding a resident's or residents' medication order(s), the administrator shall contact or recontact the physician to determine if he or she received the information and if there are any new instructions. II/III

(55) All medication errors and adverse reactions shall be promptly documented and reported to the administrator and the resident's physician. If the pharmacy made a dispensing error, it shall also be reported to the issuing pharmacy. II/III

(56) Medications that are not in current use shall be disposed of as follows:

(A) Single doses of contaminated, refused, or otherwise unusable non-controlled substance medications may be destroyed by any authorized medication staff member at the time of administration. Single doses of unusable controlled substance medications may be destroyed according to section (52) of this rule;

(B) Discontinued medications may be retained up to one hundred twenty (120) days prior to other disposition if there is reason to believe, based on clinical assessment of the resident, that the medication might be reordered;

(C) Medications may be released to the resident or family upon discharge according to section (44) of this rule;

(D) After a resident has expired, medications, except for controlled substances, may be released to the resident's legal representative upon written request of the legal representative that includes the name of the medication and the reason for the request;

(E) Medications may be returned to the pharmacy that dispensed the medications pursuant to 20 CSR 2220-3.040 or returned pursuant to the Prescription Drug Repository Program, 19 CSR 20-50.020. All other medications, including all controlled substances and all expired or otherwise unusable medications, shall be destroyed within thirty (30) days as follows:

1. Medications shall be destroyed within the facility by a pharmacist and a licensed nurse or by two (2) licensed nurses or when two (2) licensed nurses are not available on staff by two (2) individuals who have authority to administer medications, one (1) of whom shall be a licensed nurse or a pharmacist; and

2. A record of medication destroyed shall be maintained and shall include the resident's name, date, medication name and strength, quantity, prescription number, and signatures of the individuals destroying the medications; and

(F) A record of medication released or returned to the pharmacy shall be maintained and shall include the resident's name, date, medication name and strength, quantity, prescription number, and signatures of the individuals releasing and receiving the medications. II/III

(57) Residents experiencing short periods of incapacity due to illness or injury or recuperation from surgery may be allowed to remain or be readmitted from a hospital if the period of incapacity does not exceed forty-five (45) days and written approval of a physician is obtained for the resident to remain in or be readmitted to the facility. II

(58) The facility shall maintain a record in the facility for each resident, which shall include the following:

(A) Admission information including the resident's name; admission date; confidentiality number; previous address; birth date; sex; marital status; Social Security number; Medicare and Medicaid numbers (if applicable); name, address and telephone number of the resident's physician and alternate; diagnosis, name, address and telephone number of the resident's legally authorized representative or designee to be notified in case of emergency; and preferred dentist, pharmacist and funeral director; III

(B) A review monthly or more frequently, if indicated, of the resident's general condition and needs; a monthly review of medication consumption of any resident controlling his or her own medication, noting if prescription medications are being used in appropriate quantities; a daily record of administration of medication; a logging of the medication regimen review process; a monthly weight; a record of each referral of a resident for services from an outside service; and a record of any resident incidents including behaviors that present a reasonable likelihood of serious harm to himself or herself or others and accidents that potentially could result in injury or did result in injuries involving the resident; and

(C) Any physician's orders. The facility shall submit to the physician written versions of any oral or telephone orders within four (4) days of the giving of the oral or telephone order. III

(59) A record of the resident census shall be retained in the facility. III

(60) Resident records shall be maintained by the operator for at least five (5) years after a resident leaves the facility or after the resident reaches the age of twenty-one (21), whichever is longer and must include reason for discharge or transfer from the facility and cause of death, as applicable. III

(61) Staffing Requirements.

(A) The facility shall have an adequate number and type of personnel for the proper care of residents, the residents' social well being, protective oversight of residents and upkeep of the facility. At a minimum, the staffing pattern for fire safety and care of residents shall be one (1) staff person for every fifteen (15) residents or major fraction of fifteen (15) during the day shift, one (1) person for every twenty (20) residents or major fraction of twenty (20) during the evening shift and one (1) person for every twenty-five (25) residents or major fraction of twenty-five (25) during the night shift. I/II

Time	Personnel	Residents
7 a.m. to 3 p.m. (Day)*	1	3–15
3 p.m. to 9 p.m. (Evening)*	1	3–20
9 p.m. to 7 a.m. (Night)*	1	3–25

*If the shift hours vary from those indicated, the hours of the shifts shall show on the work schedules of the facility and shall not be less than six (6) hours. III

(B) The administrator shall count toward staffing when physically present in the facility. II

(C) The required staff shall be in the facility awake, dressed and prepared to assist residents in case of emergency. I/II

(D) Meeting these minimal staffing requirements may not meet the needs of residents as outlined in the residents' assessments and individualized service plans. I/II

(62) Prior to or on the first day that a new employee works in the facility he or she shall receive orientation of at least two (2) hours appropriate to his or her job function. This shall include at least the following:

(A) Job responsibilities;

(B) Emergency response procedures;

(C) Infection control and handwashing procedures and requirements;

(D) Confidentiality of resident information;

(E) Preservation of resident dignity;

(F) Information regarding what constitutes abuse/neglect and how to report abuse/neglect to the department (1-800-392-0210);

(G) Information regarding the Employee Disqualification List;

(H) Instruction regarding the rights of residents and protection of property;

(I) Instruction regarding working with residents with mental illness; and

(J) Instruction regarding person-centered care and the concept of a social model of care, and techniques that are effective in enhancing resident choice and control over his or her own environment. II/III

(63) In addition to the orientation training required in section (62) of this rule any facility that provides care to any resident having Alzheimer's disease or related dementia shall provide orientation training regarding mentally confused residents such as those with Alzheimer's disease and related dementias as follows:

(A) For employees providing direct care to such persons, the orientation training shall include at least three (3) hours of training including at a minimum an overview of mentally confused residents such as those having Alzheimer's disease and related dementias, communicating with persons with dementia, behavior management, promoting independence in activities of daily living, techniques for creating a safe, secure and socially oriented environment, provision of structure, stability and a sense of routine for residents based on their needs, and understanding and dealing with family issues; and II/III

(B) For other employees who do not provide direct care for, but may have daily contact with, such persons, the orientation training shall include at least one (1) hour of training including at a minimum an overview of mentally confused residents such as those having dementias as well as communicating with persons with dementia; and II/III

(C) For all employees involved in the care of persons with dementia, dementia-specific training shall be incorporated into ongoing in-service curricula. II/III

(64) All in-service or orientation training relating to the special needs, care and safety of residents with Alzheimer's disease and other dementia shall be conducted, presented or provided by an individual who is qualified by education, experience or knowledge in the care of individuals with Alzheimer's disease or other dementia. II/III

(65) Requirements for training related to safely transferring residents.

(A) The facility shall ensure that all staff responsible for transferring residents are appropriately trained to transfer residents safely. Individuals authorized to provide this training include a licensed nurse, a physical therapist, a physical therapy assistant, an occupational therapist or a certified occupational therapy assistant. The individual who provides the transfer training shall observe the caregiver's skills when checking competency in completing safe transfers, shall document the date(s) of training and competency and shall sign and maintain training documentation. Initial training shall include a minimum of two (2) classroom instruction hours in addition to the on-the-job training related to safely transferring residents who need assistance with transfers. II/III

(B) The facility shall ensure that a minimum of one (1) hour of transfer training is provided annually regarding safe transfer skills. II/III

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 86—Residential Care Facilities and Assisted Living Facilities

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 198.076, RSMo 2000 and 198.005 and 198.073, RSMo Supp. 2006, the department amends a rule as follows:

19 CSR 30-86.052 Dietary Requirements for Residential Care Facilities and Assisted Living Facilities **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 2, 2006 (31 MoReg 1559). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The department received two (2) comments on the proposed amendment.

COMMENT: Barbara L. Miltenberger of Husch & Eppenberger, LLC, on behalf of Missouri Health Care Association, commented that section (9) purports to address the dietary requirements under a social model of care. However, this section fails to address staff training on cooking and dietary needs, and structural or physical plant standards for smaller eating units consistent with the social model of care.

RESPONSE: The department disagrees with this comment. This rule addresses dietary requirements rather than structural or physical plant requirements. Provisions relating to resident preferences are included. Facilities may need to revise their current staff training to cover any new dietary requirements in this rule, but the department does not believe additional training will be necessary. No changes have been made to the rule as a result of this comment.

COMMENT: Norma J. Collins, Associate State Director—Advocacy, AARP Missouri, commented that the proposed regulations include some good improvements to the dietary requirements for assisted living facilities. To ensure residents' health and to be consistent with providing a home-like environment, the following requirements should be added, as recommended by the Assisted Living Workgroup:

1. Availability of meals shall allow for reasonable flexibility in resident schedules;

2. A variety of food choices shall be available to accommodate resident preferences, special needs, and diets;

3. Resident meals, snacks, and nutritional supplements shall be attractive and palatable; and

4. Fluids shall be available and appropriately offered to residents and assistance provided, as needed, to promote adequate fluid intake.

RESPONSE: The department believes these concerns are already addressed by the amendments to sections (1), (2), (3), (4), (5), (6), and (8) and the addition of section (9). No changes have been made to the rule as a result of these comments.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 87—Sanitation Requirements for Long-Term Care Facilities

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 198.009, RSMo 2000 and 198.005 and 198.073, RSMo Supp. 2006, the department amends a rule as follows:

19 CSR 30-87.020 General Sanitation Requirements for New and Existing Long-Term Care Facilities **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 2, 2006 (31 MoReg 1559–1560). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The department received one (1) comment on the proposed amendment.

COMMENT: Norma J. Collins, Associate State Director—Advocacy, AARP Missouri, commented that the proposed regulations make some nice improvements to support a facility's ability to provide a home-like environment that includes opportunities for residents to do their own laundry.
RESPONSE: The department agrees with this comment. No changes have been made to the rule as a result of the comment.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 87—Sanitation Requirements for Long-Term Care Facilities

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 198.009, 198.076 and 198.079, RSMo 2000 and 198.005 and 198.073, RSMo Supp. 2006, the department amends a rule as follows:

19 CSR 30-87.030 Sanitation Requirements for Food Service **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 2, 2006 (31 MoReg 1560–1565). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The department received one (1) comment on the proposed amendment.

COMMENT: Norma J. Collins, Associate State Director—Advocacy, AARP Missouri, commented that the proposed regulations include some good improvements that support a facility's ability to provide a home-like environment with respect to meals.
RESPONSE: The department agrees with this comment. No changes have been made to the rule as a result of this comment.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 88—Resident's Rights and Handling Resident Funds and Property in Long-Term Care Facilities

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 198.009, 198.076, 198.079 and 198.088, RSMo 2000 and 198.005, 198.073, 660.050 and 660.060, RSMo Supp. 2006, the department amends a rule as follows:

19 CSR 30-88.010 Resident Rights **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 2, 2006 (31 MoReg 1565). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2030—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects
Chapter 3—Seals

ORDER OF RULEMAKING

By the authority vested in the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects under sections 327.041 and 327.411, RSMo Supp. 2006, the board amends a rule as follows:

20 CSR 2030-3.060 Licensee's Seal **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 15, 2006 (31 MoReg 1875). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2030—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects
Chapter 11—Renewals

ORDER OF RULEMAKING

By the authority vested in the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects under sections 327.041, RSMo Supp. 2006 and 327.261, RSMo 2000, the board amends a rule as follows:

20 CSR 2030-11.015 Continuing Professional Competency for Professional Engineers **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 15, 2006 (31 MoReg 1875–1876). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2030—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects
Chapter 11—Renewals

ORDER OF RULEMAKING

By the authority vested in the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects under sections 327.041, RSMo Supp. 2006 and 41.946 and 327.171, RSMo 2000, the board amends a rule as follows:

20 CSR 2030-11.025 Continuing Education for Architects **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 15, 2006 (31 MoReg 1876). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2165—Board of Examiners for Hearing Instrument Specialists
Chapter 1—General Rules

ORDER OF RULEMAKING

By the authority vested in the Board of Examiners for Hearing Instrument Specialists under section 346.115.1(7) and (8), RSMo 2000, the board amends a rule as follows:

20 CSR 2165-1.020 Fees **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 15, 2006 (31 MoReg 1877). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2220—State Board of Pharmacy
Chapter 2—General Rules

ORDER OF RULEMAKING

By the authority vested in the State Board of Pharmacy under sections 338.010, 338.140, 338.240 and 338.280, RSMo 2000 and 338.210, RSMo Supp. 2006, the board amends a rule as follows:

20 CSR 2220-2.010 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* as 4 CSR 220-2.010 on October 2, 2006 (31 MoReg 1468–1473). The sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: One (1) comment was received.

COMMENT: Tom Glenski, Chief Inspector, Missouri Board of Pharmacy submitted a comment stating the rule amendment was based mainly on a mail order pharmacy's proposed remote verification system allowing a pharmacist to verify prescription information from their home. However, Mr. Glenski requested the board consider two (2) additional scenerios that would allow a pharmacist to practice pharmacy at their home: 1) remote verification services for hospitals and 2) a pharmacist providing drug utilization review and disease state management for retail pharmacies. Mr. Glenski suggested the board:

1. Amend paragraph (9)(A)5. to include language that prohibits patients from being seen at a Class I pharmacy in residence;
2. Amend paragraph (9)(B)1. to state ". . . All pharmacists working at the pharmacy shall be required to sign . . ." to address a situation where a pharmacist is under contract with a pharmacy instead of being an employee;
3. Amend paragraph (9)(B)2. to require the permit holder to be responsible for training since the pharmacist in charge is likely to be the only pharmacist working at the location;
4. Amend paragraph (9)(B)3. to ensure overall compliance with the audit;
5. Amend paragraph (9)(B)4. to include language if the pharmacist is working under contract a copy of the contract should be available during the inspection;
6. Delete subsections (9)(C) and (D) to be more generic allowing for differences in technology but put the responsibility on the permit holder to ensure adequate security;
7. Define the term "permit holder" used throughout subsection (9)(E); and
8. Amend subsection (9)(E) to require the audit be available during the inspection since the permit holder is getting advanced notice of the inspection and audit records should be available at that time.

COMMENT: Verbal comments were provided by Johnny Herrigon of Dillons/Gerbes, Dennis Hunt of Walgreens Corporation, and Bert McClary of Bureau of Narcotics and Dangerous Drugs during the board's December 15, 2006 meeting.
RESPONSE AND EXPLANATION OF CHANGE: Based on the written comment and discussions at the December 15, 2006 meeting, the board voted to amend the original proposed language.

20 CSR 2220-2.010 Pharmacy Standards of Operation

(9) Class I: Consultant Pharmacies as defined in 20 CSR 2220-2.020(9)(I) and are approved by the board to be located within a residence shall be required to address and comply with the following minimum standards of practice:

(A) Location Requirements—

1. The pharmacy must be located in a separate room that

provides for a door with suitable lock;

2. Sufficient storage for securing confidential documents and any hardware used in accessing a central pharmacy by electronic connection must be provided;

3. Ceiling and walls must be constructed of plaster, drywall, brick or other substantial substance that affords a design that makes the room separate and distinct from the remainder of the domicile. Drop down ceilings that allow access into the room are not allowed;

4. All locations must be inspected and have approval by the board prior to the initiation of services; and

5. Patients are not allowed in the pharmacy.

(B) Documentation—

1. Maintain a current policy and procedure manual that is attested by the signature and date of review of the pharmacist-in-charge to its accuracy. All pharmacists working at the pharmacy shall be required to sign the manual attesting to their review and understanding of all policies and procedures in force;

2. Maintain documentation that the pharmacist-in-charge or the permit holder has provided training to all personnel on all operations associated with the pharmacy;

3. The permit holder must complete an audit to ensure compliance with pharmacy policy and procedures and this regulation at a minimum of twice per year, through physical visits by representatives of the permit holder. Audit results must be maintained by the permit holder for a period of three (3) years; and

4. If the pharmacist is working under a contract for the permit holder, a copy of the contract shall be available during an inspection.

(C) Security-Records and Internet—

1. All electronic data processing systems must meet all applicable state and federal confidentiality laws and regulations;

2. Data processing systems must utilize sufficient security software; and

3. Any breach in the security of the system must be documented and reported to the board of pharmacy within seven (7) days of the breach of confidentiality. Such documentation shall be available during an inspection.

(D) Licensure and Inspection—

1. Each location must maintain and display a current Class I permit. The permit holder for this permit must be the pharmacy the individual pharmacist is employed by or contracted with;

2. Routine inspections for in-state pharmacies shall be arranged ahead of time. Notification by the inspector to the permit holder will be provided a minimum of seventy-two (72) hours ahead of the scheduled inspection. The permit holder must arrange for a designated representative to be present that is not a resident of the location under inspection;

3. A pharmacy located outside the state must maintain a pharmacist-in-charge with a current and active pharmacist license with the state of Missouri;

4. The audits required in paragraph (9)(B)3. shall be available for review during the inspection; and

5. The pharmacy shall provide copies of inspections completed by the state in which they are located if such inspections are required within seven (7) business days of the inspection date.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2220—State Board of Pharmacy
Chapter 2—General Rules

ORDER OF RULEMAKING

By the authority vested in the State Board of Pharmacy under sections 338.140 and 338.280, RSMo 2000, the board amends a rule as follows:

20 CSR 2220-2.020 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* as 4 CSR 220-2.020 on October 2, 2006 (31 MoReg 1474). The section with changes is reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: Four (4) comments were received.

COMMENT: Kevin Nicholson, Vice President, Pharmacy Regulatory Affairs, National Association of Chain Drug Stores (NACDS) submitted a comment concerning (9)(D) and (K) and Ron Fitzwater of Missouri Pharmacy Association (MPA) also submitted a comment. The NACDS stated that the proposed requirements will act as disincentives to community pharmacies that compound fewer than five percent (5%) of their annual prescription volume, and consequently will reduce the availability of compounded medications to Missouri residents. NACDS requested the board clarify that the requirements apply only to products that are comprised solely of bulk ingredients, and not to products that include one (1) or more bulk ingredients, such as distilled water, should not require the pharmacy to obtain a separate license to prepare it. NACDS is concerned that without clarification, pharmacies would not be able to compound many commonly prepared products, as most pharmacies would not obtain a separate license to compound these products. NACDS requested the board reconsider the proposed requirement that a pharmacy that compounds a smaller number of products in batch quantity must obtain a separate license. NACDS believes it would be unnecessarily burdensome for a pharmacy to obtain a separate license to batch compound one or a small number of products. If adopted, most pharmacies would end the practice of batch compounding, thus inconveniencing prescribers and patients who have come to rely upon these compounded products being readily available. Patients would have to take prescriptions to their pharmacy and wait hours or days for the pharmacy to compound the product pursuant to the prescription order. With the demands on pharmacies ever increasing, pharmacies find it helpful to have available for patients compounded products that are commonly prescribed. MPA's comments concurred with the comments from NACDS. David Overfelt of NACDS provided verbal comments concerning Kevin Nicholson's letter.

RESPONSE AND EXPLANATION OF CHANGE: The board clarified that it was not the board's intent to require new licenses in these situations. The board stated Class D: Non-Sterile Compounding is a permit classification, and would not require a new license, but would require a revision to their existing license to include those specific classifications. In order to provide further clarification, the board made amendments to paragraphs (9)(D)1. and 2.

COMMENT: Kevin Nicholson, Vice President, Pharmacy Regulatory Affairs, National Association of Chain Drug Stores (NACDS) submitted a comment requesting the board clarify that the "Class K: Internet" license would apply only to pharmacies that are not otherwise licensed by the board. Traditionally brick-and-mortar pharmacies are expanding their services to including receiving prescriptions electronically, to receiving refill requests from patients via the pharmacies' websites and to receiving refill authorizations from prescribers electronically. Because the pharmacy receives a refill request, refill authorization, or a prescription electronically, perhaps via the Internet, the pharmacy should not be required to obtain an additional license from the board. NACDS is concerned that the board's proposed language is too vague, and we again ask the board to clarify its regulations that the Class K: Internet license would apply only to pharmacies that are not otherwise licensed by the board. NACDS fears that one could interpret the board's rule to require almost every pharmacy in Missouri to obtain Class K license. MPA's comments concurred with the comments from NACDS. David Overfelt of NACDS provided verbal comments concerning Kevin Nicholson's letter.

RESPONSE AND EXPLANATION OF CHANGE: The board stated Class K: Internet is a permit classification, and would not require a new license, but would require a revision to their existing license

to include those specific classifications. In order to provide further clarification, the board made amendments to subsection (9)(K).

20 CSR 2220-2.020 Pharmacy Permits

(9) The following classes of pharmacy permits or licenses are hereby established:

(D) Class D: Non-Sterile Compounding. A pharmacy that provides services as defined in section 338.010, RSMo and provides a non-sterile compounded product as defined in 20 CSR 2220-2.400(1) and meets the following criteria:

1. Any product made from any bulk active ingredient in a batch quantity as defined in 20 CSR 2220-2.400(3).

(K) Class K: Internet. A pharmacy that provides services as defined in section 338.010, RSMo, and is involved in the receipt, review, preparation, compounding, dispensing or offering for sale any drugs, chemicals, medicines or poisons for any new prescriptions originating from the Internet for greater than ninety percent (90%) of the total new prescription volume on any day. A prescription must be provided by a practitioner licensed in the United States authorized by law to prescribe drugs and who has performed a sufficient physical examination and clinical assessment of the patient.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2220—State Board of Pharmacy
Chapter 2—General Rules

ORDER OF RULEMAKING

By the authority vested in the State Board of Pharmacy under sections 338.140 and 338.280, RSMo 2000 and 338.220, RSMo Supp. 2006, the board withdraws a proposed amendment as follows:

20 CSR 2220-2.025 Nonresident Pharmacies **is withdrawn**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* as 4 CSR 220-2.025 on October 2, 2006 (31 MoReg 1474–1478). This proposed amendment is withdrawn.

SUMMARY OF COMMENTS: Two (2) written comments were received.

COMMENT: Kevin Nicholson, Vice President, Pharmacy Regulatory Affairs, National Association of Chain Drug Stores (NACDS) submitted a comment stating that it would require many nonresident pharmacists to be licensed in Missouri unnecessarily, and would prevent Missouri pharmacies from outsourcing prescription filling and processing services to nonresident pharmacies, as nonresident pharmacies would typically not be staffed by pharmacists licensed in Missouri. Fred Brinkley, Vice President of Professional Affairs, Medco concurred with NACDS comment. David Overfelt of NACDS and Dennis Hunt of Walgreens Corporation provided verbal comments during the board's December 15, 2006 meeting.

RESPONSE: It was the board's determination that the rule as proposed could cause all pharmacists in nonresident pharmacies to need licensure in Missouri if they are accessing computer information in Missouri from their nonresident location. In addition, it was noted that the fiscal note with this amendment would be inaccurate because of the number of nonresident pharmacists that would be required to be licensed in Missouri. It was the board's decision to withdraw this proposed amendment from further processing.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2220—State Board of Pharmacy
Chapter 2—General Rules

ORDER OF RULEMAKING

By the authority vested in the State Board of Pharmacy under sections 338.140 and 338.280, RSMo 2000, the board amends a rule as follows:

20 CSR 2220-2.190 Patient Counseling **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* as 4 CSR 220-2.190 on October 2, 2006 (31 MoReg 1479). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: One (1) comment was received.

COMMENT: Ron Fitzwater, Missouri Pharmacy Association (MPA) submitted a comment stating that a direct patient-pharmacists relationship is vital for obtaining optimum therapeutic outcomes from a medication regimen. MPA believes the offer to counsel may be easily lost if allowed to be contained in the information provided by automated dispensing machines to patients.
RESPONSE: The board determined the change to 20 CSR 2220-2.190 alleviated this concern and voted to make no changes to the amendment.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2220—State Board of Pharmacy
Chapter 2—General Rules

ORDER OF RULEMAKING

By the authority vested in the State Board of Pharmacy under sections 338.140 and 338.280, RSMo 2000, the board amends a rule as follows:

20 CSR 2220-2.450 Fingerprint Requirements **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* as 4 CSR 220-2.450 on October 2, 2006 (31 MoReg 1479–1481). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2220—State Board of Pharmacy
Chapter 2—General Rules

ORDER OF RULEMAKING

By the authority vested in the State Board of Pharmacy under sections 338.210 and 338.220, RSMo Supp. 2006 and 338.140 and 338.280, RSMo 2000, the board amends a rule as follows:

20 CSR 2220-2.900 is amended.

A notice of the proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* as 4 CSR 220-2.900 on October 2, 2006 (31 MoReg 1482–1484). The section with changes is reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: One (1) comment was received.

COMMENT: Ron Fitzwater of Missouri Pharmacy Association (MPA) submitted the comment indicating the rule amendment would minimize the patient-pharmacist relationship and would lose an effective patient counseling opportunity and request the board to reconsider the proposal allowing non-standardized offers to counsel by automated dispensing machines. Verbal comments provided at the December 15, 2006 board meeting by Ron Fitzwater of MPA; David Overfelt of National Association of Chain Drug Stores (NACDS); Susan Bricker of BJC Healthcare, St. Louis; and Bert McClary of Bureau of Narcotics and Dangerous Drugs. It was also suggested that in subsection (1)(J) the word "Federal" be replaced with "Food and Drug" i.e., ". . . compliance with [Federal] Food and Drug Administration (FDA) requirements."
RESPONSE AND EXPLANATION OF CHANGE: The board voted to delete the last portion of the last sentence of section (1) referring to the pharmacist being available at all times telephonically. The board also voted to amend section (1)(J) as suggested.

20 CSR 2220-2.900 Automated Dispensing and Storage Systems

(1) Automated dispensing and storage systems (hereafter referred to as automated system or system) are hereby defined to include, but are not limited to, mechanical systems that perform operations or activities, relative to the storage, packaging or dispensing of medications, and which collect, control, and maintain all transaction information. Such systems may be used in pharmacies and where a pharmacy permit exists, for maintaining patient care unit medication inventories or for a patient profile dispensing system, provided the utilization of such devices is under the supervision of a pharmacist. A pharmacist is not required to be physically present at the site of the automated pharmacy system if the system is supervised electronically by a pharmacist. In order to supervise the system within an ambulatory care setting, the pharmacist must maintain constant visual and auditory communication with the site and full control of the automated system must be maintained by the pharmacist and shall not be delegated to any other person or entity. Supervision of an automated refill patient self-service device requires that a pharmacist employed by the pharmacy by which the device is owned and operated be available at all times during operating hours of the pharmacy.

(J) Drugs that are repackaged for use in automated systems at remote locations must comply with 20 CSR 2220-2.130 Drug Repackaging requirements. Automated refill patient self-service devices must comply with all labeling and dispensing laws governing the provision of medication refills to patients. Products that are considered temperature sensitive or products that require further manipulation in order to be ready for use by a patient shall not be provided through patient self-service devices, unless the device has the capability to provide storage conditions in compliance with Food and Drug Administration (FDA) requirements.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2220—State Board of Pharmacy
Chapter 5—Drug Distributor

ORDER OF RULEMAKING

By the authority vested in the State Board of Pharmacy under sections 338.330, 338.333, 338.335, 338.337, 338.340 and 338.350, RSMo 2000, the board amends a rule as follows:

20 CSR 2220-5.020 Drug Distributor Licensing Requirements **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* as 4 CSR 220-5.020 on October 2, 2006 (31 MoReg 1485). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2220—State Board of Pharmacy
Chapter 5—Drug Distributor

ORDER OF RULEMAKING

By the authority vested in the State Board of Pharmacy under sections 338.333, 338.343, and 338.350, RSMo 2000, the board amends a rule as follows:

20 CSR 2220-5.030 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* as 4 CSR 220-5.030 on October 2, 2006 (31 MoReg 1485–1486). The section with changes is reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: Two (2) comments were received.

COMMENT: Matthew Van Hook of Engel & Novitt, LLP, on behalf of Pharmaceutical Research and Manufacturers of America (PhRMA) stating PhRMA believes the time frame for reporting is too short and suggested changing (3)(M)6. from three (3) business days to ten (10) days.
RESPONSE AND EXPLANATION OF CHANGE: It was the decision of the board to change three (3) business days to seven (7) business days in (3)(M)6. and 7., keeping the reporting period the same for consistency purposes.

COMMENT: Bartley Barefoot, GlaxoSmithKline submitted a comment concerning reporting known or suspected instances of drug counterfeiting, theft or diversion to the board. State-by-state reporting requirements imposed on pharmaceutical manufacturers operating on a nationwide basis are an inefficient approach and are not necessary in light of enforcement efforts already taking place at the federal level in which manufacturers participate. Therefore, Mr. Barefoot requested that drug manufacturers be exempted from the proposed reporting requirements in (3)(M)4.–7.
RESPONSE: The board voted to not to make the changes as suggested by Mr. Barefoot.

20 CSR 2220-5.030 Definitions and Standards for Drug Wholesale and Pharmacy Distributors

(3) Minimum standards of practice for drug distributors shall include the following:

(M) Wholesale drug and pharmacy distributors shall establish, maintain and adhere to written policies and procedures, which shall be followed for the receipt, security, storage, inventory and distribution of prescription drugs, including policies and procedures for identifying, recording and reporting losses or thefts and for correcting all errors and inaccuracies in inventories. Drug distributors shall include in their written policies and procedures the following:

1. A procedure where the oldest approved stock of a prescription drug product is distributed first. The procedure may permit deviation from this requirement if the deviation is temporary and appropriate;

2. A procedure to be followed for handling recalls and withdrawals of prescription drugs. This procedure shall be adequate to deal with recalls and withdrawals due to any—

A. Action initiated at the request of the FDA or other federal, state, or local law enforcement or other government agency, including the Board of Pharmacy;

B. Voluntary action by the manufacturer to remove defective or potentially defective drugs from the market; or

C. Action undertaken to promote public health and safety by replacing existing merchandise with an improved product or new package design;

3. A procedure to ensure that drug distributors prepare for, protect against and handle any crisis that affects the security or operation of any facility in the event of strike, fire, flood or other natural disaster, or other situations of local, state or national emergency;

4. A procedure for reporting counterfeit or suspected counterfeit drugs or devices or counterfeiting or suspected counterfeiting activities to the board;

5. A procedure for the mandatory reporting to the board and any other appropriate federal or state agency of all shortages of prescription drugs and devices where it is known or suspected that diversion or theft is occurring;

6. A procedure for investigating discrepancies involving counterfeit, suspect of being counterfeit, contraband, or suspect of being contraband in the inventory and reporting such discrepancies within seven (7) business days to the board and any other appropriate federal or state agency shall be maintained by each drug distributor;

7. A procedure for reporting criminal or suspected criminal activities involving the inventory of drug(s) and device(s) to the board within the seven (7) business days; and

8. A procedure to ensure that any outdated prescription drugs shall be segregated from other drugs and either returned to the manufacturer or destroyed. This procedure shall provide for written documentation of the disposition of outdated prescription drugs. This documentation shall be maintained for three (3) years after disposition of the outdated drugs;

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2270—Missouri Veterinary Medical Board
Chapter 1—General Rules

ORDER OF RULEMAKING

By the authority vested in the Missouri Veterinary Medical Board under sections 334.210 and 340.332, RSMo 2000, the board amends a rule as follows:

20 CSR 2270-1.021 Fees **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 15, 2006 (31 MoReg 1877–1880). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2270—Missouri Veterinary Medical Board
Chapter 4—Minimum Standards

ORDER OF RULEMAKING

By the authority vested in the Missouri Veterinary Medical Board under sections 340.210, 340.258 and 340.268, RSMo 2000, the board amends a rule as follows:

20 CSR 2270-4.042 Minimum Standards for Continuing Education for Veterinarians **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 15, 2006 (31 MoReg 1881). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

The Secretary of State is required by sections 347.141 and 359.481, RSMo 2000 to publish dissolutions of limited liability companies and limited partnerships. The content requirements for the one-time publishing of these notices are prescribed by statute. This listing is published pursuant to these statutes. We request that documents submitted for publication in this section be submitted in camera ready 8 1/2" x 11" manuscript by email to dissolutions@sos.mo.gov.

NOTICE OF WINDING UP OF LIMITED PARTNERSHIP TO ALL CREDITORS OF AND CLAIMANTS AGAINST ELLISON LIMITED PARTNERSHIP PURSUANT TO R.S.Mo. § 359-481

ELLISON LIMITED PARTNERSHIP, a Missouri limited partnership, filed its certificate of cancellation with the Missouri Secretary of State on January 16, 2007, effective on the filing date.

All persons and organizations with claims against said corporation must submit in writing to ELLISON LIMITED PARTNERSHIP, c/o Clifford S. Brown, Esq., Carnahan, Evans, Cantwell & Brown, P.C., 2805 S. Ingram Mill, Springfield, Missouri 65804-4043, including: 1) claimant's name, address and telephone number; 2) amount of claim; 3) date(s) claim accrued (or will accrue); 4) brief description of the nature of the debt or the basis for the claim; and 5) if the claim is secured, and if so, the collateral used as security.

Because of the dissolution, any claims against ELLISON LIMITED PARTNERSHIP will be barred unless a proceeding to enforce the claim is commenced within three (3) years after this notice.

Notice of Dissolution of Limited Liability Company To All Creditors of and Claimants Against Fortunes Entertainment, LLC

On December 29, 2006, Fortunes Entertainment, LLC, a Missouri limited liability company (the "Company'), filed its Notice of Winding Up with the Missouri Secretary of State. The Company requests that all persons and organizations who have claims against it present them immediately by letter to the Company, c/o Richard Rothman, Blitz, Bardgett & Deutsch, L.C., 120 S. Central, Suite 1650, St. Louis, Missouri 63105.

All claims must include: the name and address of the claimant; the amount claimed; the basis of the claim; the date(s) on which the events occurred which provided the basis for the claim; and documentation of the claim.

Any claim against the Company will be barred unless a proceeding to enforce the claim is commenced within three years after the publication of this notice.

**NOTICE OF DISSOLUTION OF
LIMITED LIABILITY COMPANY**

To all Creditors of and Claimants against CAST-TECH, L.L.C.

On January 5, 2007, Cast-Tech, L.L.C. filed its Notice of Winding Up and Articles of Termination for a limited liability company with the Missouri Secretary of State, effective January 5, 2007. You are hereby notified that if you believe you have a claim against Cast-Tech, L.L.C. you must submit a claim to: Cast-Tech, L.L.C., c/o Bill Smith, Nolan Real Estate Services, Inc., 800 West 47th Street, Suite 300, Kansas City, Missouri 64112. Claims must include (1) the name and address of the claimant; (2) the amount of the claim; (3) the basis for the claim; and (4) documentation of the claim.

A claim against Cast-Tech, L.L.C. will be barred unless a proceeding to enforce the claim is commenced within three years after the Publication Date of this Notice.

This cumulative table gives you the latest status of rules. It contains citations of rulemakings adopted or proposed after deadline for the monthly Update Service to the *Code of State Regulations*, citations are to volume and page number in the *Missouri Register*, except for material in this issue. The first number in the table cite refers to the volume number or the publication year—30 (2005) and 31 (2006). MoReg refers to *Missouri Register* and the numbers refer to a specific *Register* page, R indicates a rescission, W indicates a withdrawal, S indicates a statement of actual cost, T indicates an order terminating a rule, N.A. indicates not applicable, RUC indicates a rule under consideration, and F indicates future effective date.

Rule Number	Agency	Emergency	Proposed	Order	In Addition
	OFFICE OF ADMINISTRATION				
1 CSR 10	State Officials' Salary Compensation Schedule				30 MoReg 2435
1 CSR 20-4.010	Personnel Advisory Board and Division of Personnel		31 MoReg 1867		
	DEPARTMENT OF AGRICULTURE				
2 CSR 70-25.120	Plant Industries				32 MoReg 356
2 CSR 110-2.010	Office of the Director	31 MoReg 1293	31 MoReg 1306	32 MoReg 93	
	DEPARTMENT OF CONSERVATION				
3 CSR 10-4.117	Conservation Commission		31 MoReg 1703	32 MoReg 162	
3 CSR 10-4.145	Conservation Commission		31 MoReg 1703	32 MoReg 162	
3 CSR 10-5.310	Conservation Commission		31 MoReg 1704	32 MoReg 162	
3 CSR 10-5.315	Conservation Commission		31 MoReg 1704	32 MoReg 162	
3 CSR 10-5.320	Conservation Commission		31 MoReg 1704	32 MoReg 163	
3 CSR 10-5.330	Conservation Commission		31 MoReg 1705	32 MoReg 163	
3 CSR 10-5.351	Conservation Commission		31 MoReg 1705	32 MoReg 163	
3 CSR 10-5.352	Conservation Commission		31 MoReg 1705	32 MoReg 163	
3 CSR 10-5.375	Conservation Commission		31 MoReg 1705	32 MoReg 163	
3 CSR 10-5.440	Conservation Commission		31 MoReg 1709	32 MoReg 163	
3 CSR 10-5.460	Conservation Commission		31 MoReg 1711	32 MoReg 163	
3 CSR 10-5.465	Conservation Commission		31 MoReg 1711	32 MoReg 164	
3 CSR 10-5.540	Conservation Commission		31 MoReg 1711	32 MoReg 164	
3 CSR 10-5.545	Conservation Commission		31 MoReg 1713	32 MoReg 164	
3 CSR 10-5.551	Conservation Commission		31 MoReg 1715	32 MoReg 164	
3 CSR 10-5.552	Conservation Commission		31 MoReg 1717	32 MoReg 164	
3 CSR 10-5.554	Conservation Commission		31 MoReg 1717	32 MoReg 164	
3 CSR 10-5.559	Conservation Commission		31 MoReg 1717	32 MoReg 165	
3 CSR 10-5.560	Conservation Commission		31 MoReg 1719	32 MoReg 165	
3 CSR 10-5.565	Conservation Commission		31 MoReg 1721	32 MoReg 165	
3 CSR 10-5.570	Conservation Commission		31 MoReg 1723	32 MoReg 165	
3 CSR 10-5.576	Conservation Commission		31 MoReg 1725	32 MoReg 165	
3 CSR 10-6.405	Conservation Commission		31 MoReg 1725	32 MoReg 165	
3 CSR 10-6.410	Conservation Commission		31 MoReg 1725	32 MoReg 166	
3 CSR 10-6.505	Conservation Commission		31 MoReg 1726	32 MoReg 166	
3 CSR 10-6.510	Conservation Commission		31 MoReg 1726	32 MoReg 166	
3 CSR 10-6.515	Conservation Commission		31 MoReg 1726	32 MoReg 166	
3 CSR 10-6.520	Conservation Commission		31 MoReg 1727	32 MoReg 166	
3 CSR 10-6.525	Conservation Commission		31 MoReg 1727	32 MoReg 167	
3 CSR 10-6.530	Conservation Commission		31 MoReg 1727	32 MoReg 167	
3 CSR 10-6.533	Conservation Commission		31 MoReg 1727	32 MoReg 167	
3 CSR 10-6.535	Conservation Commission		31 MoReg 1728 32 MoReg 215	32 MoReg 167	
3 CSR 10-6.540	Conservation Commission		31 MoReg 1728	32 MoReg 167	
3 CSR 10-6.545	Conservation Commission		31 MoReg 1728	32 MoReg 167	
3 CSR 10-6.550	Conservation Commission		31 MoReg 1729	32 MoReg 168	
3 CSR 10-6.605	Conservation Commission		31 MoReg 1729	32 MoReg 168	
3 CSR 10-7.410	Conservation Commission		31 MoReg 1729	32 MoReg 168	
3 CSR 10-7.415	Conservation Commission		31 MoReg 1730	32 MoReg 168	
3 CSR 10-7.430	Conservation Commission		31 MoReg 1730	32 MoReg 168	
3 CSR 10-7.450	Conservation Commission		31 MoReg 1731	32 MoReg 168	
3 CSR 10-7.455	Conservation Commission				32 MoReg 261
3 CSR 10-8.510	Conservation Commission		31 MoReg 1731	32 MoReg 168	
3 CSR 10-8.515	Conservation Commission		31 MoReg 1732	32 MoReg 169	
3 CSR 10-9.105	Conservation Commission		31 MoReg 1733	32 MoReg 169	
3 CSR 10-9.110	Conservation Commission		31 MoReg 1737	32 MoReg 169	
3 CSR 10-9.220	Conservation Commission		31 MoReg 1737	32 MoReg 169	
3 CSR 10-9.351	Conservation Commission		31 MoReg 1739	32 MoReg 170	
3 CSR 10-9.353	Conservation Commission		31 MoReg 1739R 31 MoReg 1739	32 MoReg 253R 32 MoReg 253	
3 CSR 10-9.359	Conservation Commission		31 MoReg 1741	32 MoReg 170	
3 CSR 10-9.425	Conservation Commission		31 MoReg 1741	32 MoReg 170	
3 CSR 10-9.560	Conservation Commission		31 MoReg 1741	32 MoReg 170	
3 CSR 10-9.565	Conservation Commission		31 MoReg 769 31 MoReg 1742	32 MoReg 253	
3 CSR 10-9.625	Conservation Commission		31 MoReg 1743	32 MoReg 254	
3 CSR 10-9.627	Conservation Commission		31 MoReg 1743	32 MoReg 170	

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3 CSR 10-9.628	Conservation Commission		31 MoReg 1744	32 MoReg 255	
3 CSR 10-10.725	Conservation Commission		31 MoReg 1744	32 MoReg 170	
3 CSR 10-10.735	Conservation Commission		31 MoReg 1744	32 MoReg 171	
3 CSR 10-11.125	Conservation Commission		31 MoReg 1745	32 MoReg 255	
3 CSR 10-11.140	Conservation Commission		31 MoReg 1745	32 MoReg 171	
3 CSR 10-11.160	Conservation Commission		31 MoReg 1746	32 MoReg 171	
3 CSR 10-11.180	Conservation Commission		31 MoReg 1748	32 MoReg 171	
3 CSR 10-11.200	Conservation Commission		31 MoReg 1751	32 MoReg 171	
3 CSR 10-11.205	Conservation Commission		31 MoReg 1751	32 MoReg 171	
3 CSR 10-11.210	Conservation Commission		31 MoReg 1752	32 MoReg 172	
3 CSR 10-11.215	Conservation Commission		31 MoReg 1752	32 MoReg 172	
3 CSR 10-12.109	Conservation Commission		31 MoReg 1753	32 MoReg 172	
3 CSR 10-12.115	Conservation Commission		31 MoReg 1753	32 MoReg 172	
3 CSR 10-12.130	Conservation Commission		31 MoReg 1754	32 MoReg 172	
3 CSR 10-12.145	Conservation Commission		31 MoReg 1754	32 MoReg 172	
3 CSR 10-12.155	Conservation Commission		31 MoReg 1754	32 MoReg 173	
3 CSR 10-20.805	Conservation Commission		31 MoReg 1755	32 MoReg 173	
	DEPARTMENT OF ECONOMIC DEVELOPMENT				
4 CSR 30-6.015	Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects *(Changed to 20 CSR 2030-6.015)*		31 MoReg 1392	31 MoReg 2056	
4 CSR 40-4.040	Office of Athletics *(Changed to 20 CSR 2040-4.040)*		31 MoReg 1310	32 MoReg 177	
4 CSR 40-4.090	Office of Athletics *(Changed to 20 CSR 2040-4.090)*		31 MoReg 1310	32 MoReg 177	
4 CSR 110-2.110	Missouri Dental Board *(Changed to 20 CSR 2110-2.110)*		31 MoReg 1395	32 MoReg 178	
4 CSR 110-2.114	Missouri Dental Board *(Changed to 20 CSR 2110-2.114)*		31 MoReg 1395	32 MoReg 178	
4 CSR 150-2.125	State Board of Registration for the Healing Arts *(Changed to 20 CSR 2150-2.125)*		31 MoReg 1398	32 MoReg 259	
4 CSR 150-3.010	State Board of Registration for the Healing Arts *(Changed to 20 CSR 2150-3.010)*		31 MoReg 1398	32 MoReg 260	
4 CSR 150-3.203	State Board of Registration for the Healing Arts *(Changed to 20 CSR 2150-3.203)*		31 MoReg 1399	32 MoReg 260	
4 CSR 150-5.100	State Board of Registration for the Healing Arts *(Changed to 20 CSR 2150-5.100)*		31 MoReg 1399	32 MoReg 355W	
4 CSR 150-7.135	State Board of Registration for the Healing Arts *(Changed to 20 CSR 2150-7.135)*		31 MoReg 1400	32 MoReg 355W	
4 CSR 200-4.100	State Board of Nursing *(Changed to 20 CSR 2200-4.100)*		31 MoReg 1401	32 MoReg 260	
4 CSR 200-4.200	State Board of Nursing *(Changed to 20 CSR 2200-4.200)*		31 MoReg 1401	32 MoReg 355W	
4 CSR 220-2.010	State Board of Pharmacy *(Changed to 20 CSR 2220-2.010)*		31 MoReg 1468	This Issue	
4 CSR 220-2.020	State Board of Pharmacy *(Changed to 20 CSR 2220-2.020)*		31 MoReg 1474	This Issue	
4 CSR 220-2.025	State Board of Pharmacy *(Changed to 20 CSR 2220-2.025)*		31 MoReg 1474	This IssueW	
4 CSR 220-2.190	State Board of Pharmacy *(Changed to 20 CSR 2220-2.190)*		31 MoReg 1479	This Issue	
4 CSR 220-2.450	State Board of Pharmacy *(Changed to 20 CSR 2220-2.450)*		31 MoReg 1479	This Issue	
4 CSR 220-2.900	State Board of Pharmacy *(Changed to 20 CSR 2220-2.900)*		31 MoReg 1482	This Issue	
4 CSR 220-5.020	State Board of Pharmacy *(Changed to 20 CSR 2220-5.020)*		31 MoReg 1485	This Issue	
4 CSR 220-5.030	State Board of Pharmacy *(Changed to 20 CSR 2220-5.030)*		31 MoReg 1485	This Issue	
4 CSR 232-2.040	Missouri State Committee of Interpreters *(Changed to 20 CSR 2232-2.040)*	31 MoReg 1465	31 MoReg 1486	32 MoReg 179	
4 CSR 235-5.030	State Committee of Psychologists *(Changed to 20 CSR 2235-5.030)*		31 MoReg 1212R 31 MoReg 1212	32 MoReg 179R 32 MoReg 179	
4 CSR 235-7.020	State Committee of Psychologists *(Changed to 20 CSR 2235-7.020)*		31 MoReg 1218	32 MoReg 180	
4 CSR 235-7.030	State Committee of Psychologists *(Changed to 20 CSR 2235-7.030)*		31 MoReg 1218	32 MoReg 180	
4 CSR 240-37.010	Public Service Commission		31 MoReg 1758	32 MoReg 341	
4 CSR 240-37.020	Public Service Commission		31 MoReg 1758	32 MoReg 341	
4 CSR 240-37.030	Public Service Commission		31 MoReg 1759	32 MoReg 342	
4 CSR 240-37.040	Public Service Commission		31 MoReg 1763	32 MoReg 347	
4 CSR 240-37.050	Public Service Commission		31 MoReg 1763	32 MoReg 347	
4 CSR 240-37.060	Public Service Commission		31 MoReg 1764	32 MoReg 348	
4 CSR 262-1.010	Small Business Regulatory Fairness Board		32 MoReg 9		
4 CSR 262-1.020	Small Business Regulatory Fairness Board		32 MoReg 13		
4 CSR 265-9.010	Division of Motor Carrier and Railroad Safety *(Changed to 7 CSR 265-9.010)*		32 MoReg 15		

Rule Number	Agency	Emergency	Proposed	Order	In Addition
4 CSR 265-9.020	Division of Motor Carrier and Railroad Safety *(Changed to 7 CSR 265-9.020)*		32 MoReg 16		
4 CSR 265-9.040	Division of Motor Carrier and Railroad Safety *(Changed to 7 CSR 265-9.040)*		32 MoReg 17		
4 CSR 265-9.050	Division of Motor Carrier and Railroad Safety *(Changed to 7 CSR 265-9.050)*		32 MoReg 19		
4 CSR 265-9.060	Division of Motor Carrier and Railroad Safety *(Changed to 7 CSR 265-9.060)*		32 MoReg 19		
4 CSR 265-9.070	Division of Motor Carrier and Railroad Safety *(Changed to 7 CSR 265-9.070*		32 MoReg 19		
4 CSR 265-9.090	Division of Motor Carrier and Railroad Safety *(Changed to 7 CSR 265-9.090)*		32 MoReg 20		
4 CSR 265-9.100	Division of Motor Carrier and Railroad Safety *(Changed to 7 CSR 265-9.100)*		32 MoReg 20		
4 CSR 265-9.110	Division of Motor Carrier and Railroad Safety *(Changed to 7 CSR 265-9.110)*		32 MoReg 21		
4 CSR 265-9.130	Division of Motor Carrier and Railroad Safety *(Changed to 7 CSR 265-9.130)*		32 MoReg 24		
4 CSR 265-9.140	Division of Motor Carrier and Railroad Safety *(Changed to 7 CSR 265-9.140)*		32 MoReg 24		
4 CSR 265-9.150	Division of Motor Carrier and Railroad Safety *(Changed to 7 CSR 265-9.150)*		32 MoReg 25		
	DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION				
5 CSR 30-261.040	Division of Administrative and Financial Services		32 MoReg 26		
5 CSR 30-345.010	Division of Administrative and Financial Services		31 MoReg 1417R	32 MoReg 349R	
5 CSR 30-640.010	Division of Administrative and Financial Services		31 MoReg 1869R		
5 CSR 30-660.065	Division of Administrative and Financial Services		31 MoReg 1869R		
5 CSR 50-200.010	Division of School Improvement		31 MoReg 1764		
5 CSR 50-200.050	Division of School Improvement		31 MoReg 1641		
5 CSR 50-345.020	Division of School Improvement		31 MoReg 1223R	32 MoReg 94R	
5 CSR 50-350.040	Division of School Improvement		32 MoReg 33		
5 CSR 50-500.010	Division of School Improvement		This Issue		
5 CSR 60-100.050	Division of Career Education		31 MoReg 1644R		
5 CSR 70-742.141	Special Education		N.A.	32 MoReg 350	
5 CSR 80-805.015	Teacher Quality and Urban Education		31 MoReg 1223	32 MoReg 94	
	DEPARTMENT OF HIGHER EDUCATION				
6 CSR 10-2.020	Commissioner of Higher Education		32 MoReg 303		
6 CSR 10-2.080	Commissioner of Higher Education		32 MoReg 303		
6 CSR 10-2.120	Commissioner of Higher Education		32 MoReg 304		
	DEPARTMENT OF TRANSPORTATION				
7 CSR 10-10.010	Missouri Highways and Transportation Commission		32 MoReg 133		
7 CSR 10-10.030	Missouri Highways and Transportation Commission		32 MoReg 134		
7 CSR 10-10.040	Missouri Highways and Transportation Commission		32 MoReg 135		
7 CSR 10-10.050	Missouri Highways and Transportation Commission		32 MoReg 135		
7 CSR 10-10.060	Missouri Highways and Transportation Commission		32 MoReg 136		
7 CSR 10-10.070	Missouri Highways and Transportation Commission		32 MoReg 136		
7 CSR 10-10.080	Missouri Highways and Transportation Commission		32 MoReg 138		
7 CSR 10-10.090	Missouri Highways and Transportation Commission		32 MoReg 138		
7 CSR 10-25.010	Missouri Highways and Transportation Commission				32 MoReg 98 32 MoReg 261
7 CSR 265-9.010	Motor Carrier and Railroad Safety *(Changed from 4 CSR 265-9.010)*		32 MoReg 15		
7 CSR 265-9.020	Motor Carrier and Railroad Safety *(Changed from 4 CSR 265-9.020)*		32 MoReg 16		
7 CSR 265-9.040	Motor Carrier and Railroad Safety *(Changed from 4 CSR 265-9.040)*		32 MoReg 17		
7 CSR 265-9.050	Motor Carrier and Railroad Safety *(Changed from 4 CSR 265-9.050)*		32 MoReg 19		
7 CSR 265-9.060	Motor Carrier and Railroad Safety *(Changed from 4 CSR 265-9.060)*		32 MoReg 19		
7 CSR 265-9.070	Motor Carrier and Railroad Safety *(Changed from 4 CSR 265-9.070)*		32 MoReg 19		
7 CSR 265-9.090	Motor Carrier and Railroad Safety *(Changed from 4 CSR 265-9.090)*		32 MoReg 20		
7 CSR 265-9.100	Motor Carrier and Railroad Safety *(Changed from 4 CSR 265-9.100)*		32 MoReg 20		

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7 CSR 265-9.110	Motor Carrier and Railroad Safety *(Changed from 4 CSR 265-9.110)*		32 MoReg 21		
7 CSR 265-9.130	Motor Carrier and Railroad Safety *(Changed from 4 CSR 265-9.130)*		32 MoReg 24		
7 CSR 265-9.140	Motor Carrier and Railroad Safety *(Changed from 4 CSR 265-9.140)*		32 MoReg 24		
7 CSR 265-9.150	Motor Carrier and Railroad Safety *(Changed from 4 CSR 265-9.150)*		32 MoReg 25		
	DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS				
8 CSR 50-2.030	Division of Workers' Compensation	31 MoReg 1377	31 MoReg 1417	32 MoReg 173	
	DEPARTMENT OF MENTAL HEALTH				
9 CSR 10-7.140	Director, Department of Mental Health		31 MoReg 1486	This Issue	
	DEPARTMENT OF NATURAL RESOURCES				
10 CSR 10-2.070	Air Conservation Commission		32 MoReg 39		
10 CSR 10-2.390	Air Conservation Commission		31 MoReg 1941		
10 CSR 10-3.090	Air Conservation Commission		32 MoReg 39		
10 CSR 10-4.070	Air Conservation Commission		32 MoReg 40		
10 CSR 10-5.160	Air Conservation Commission		32 MoReg 41		
10 CSR 10-5.220	Air Conservation Commission		32 MoReg 215		
10 CSR 10-5.375	Air Conservation Commission		32 MoReg 305R		
10 CSR 10-5.380	Air Conservation Commission		32 MoReg 305R		
10 CSR 10-5.381	Air Conservation Commission		32 MoReg 306		
10 CSR 10-5.480	Air Conservation Commission		31 MoReg 1965		
10 CSR 10-6.062	Air Conservation Commission		31 MoReg 1766		
10 CSR 10-6.070	Air Conservation Commission		32 MoReg 139		
10 CSR 10-6.075	Air Conservation Commission		32 MoReg 139		
10 CSR 10-6.080	Air Conservation Commission		32 MoReg 141		
10 CSR 10-6.350	Air Conservation Commission		31 MoReg 1766		
10 CSR 10-6.360	Air Conservation Commission		31 MoReg 1767		
10 CSR 10-6.362	Air Conservation Commission		31 MoReg 1769		
10 CSR 10-6.364	Air Conservation Commission		31 MoReg 1781		
10 CSR 10-6.366	Air Conservation Commission		31 MoReg 1791		
10 CSR 10-6.368	Air Conservation Commission		31 MoReg 1797		
10 CSR 20-4.023	Clean Water Commission	This Issue			
10 CSR 20-4.030	Clean Water Commission	This Issue			
10 CSR 20-4.061	Clean Water Commission	This Issue			
10 CSR 20-7.050	Clean Water Commission	31 MoReg 1845	31 MoReg 2049		
10 CSR 23-1.075	Division of Geology and Land Survey		31 MoReg 1644	32 MoReg 352	
10 CSR 23-3.100	Division of Geology and Land Survey		32 MoReg 320		
10 CSR 23-5.050	Division of Geology and Land Survey		32 MoReg 322		
10 CSR 50-2.030	Oil and Gas Council		31 MoReg 1645		
10 CSR 60-13.010	Public Drinking Water Program	This Issue			
10 CSR 80-2.010	Solid Waste Management		31 MoReg 1141	32 MoReg 95	
10 CSR 80-2.015	Solid Waste Management		31 MoReg 1145	32 MoReg 95	
10 CSR 80-8.020	Solid Waste Management		32 MoReg 224		
10 CSR 80-8.030	Solid Waste Management		32 MoReg 226		
10 CSR 80-8.040	Solid Waste Management		32 MoReg 227R		
10 CSR 80-8.050	Solid Waste Management		32 MoReg 228		
10 CSR 80-8.060	Solid Waste Management		32 MoReg 238		
10 CSR 80-9.010	Solid Waste Management		32 MoReg 323R		
10 CSR 80-9.030	Solid Waste Management		32 MoReg 241		
10 CSR 80-9.035	Solid Waste Management		32 MoReg 242		
10 CSR 80-9.050	Solid Waste Management		32 MoReg 323		
10 CSR 100-2.010	Petroleum Storage Tank Insurance Fund Board of Trustees		32 MoReg 42		
10 CSR 100-4.010	Petroleum Storage Tank Insurance Fund Board of Trustees		32 MoReg 43		
10 CSR 100-4.020	Petroleum Storage Tank Insurance Fund Board of Trustees		32 MoReg 43		
10 CSR 100-5.010	Petroleum Storage Tank Insurance Fund Board of Trustees		32 MoReg 44		
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11 CSR 10-5.010	Adjutant General	31 MoReg 1380	31 MoReg 1422	31 MoReg 2053	
11 CSR 30-11.010	Office of the Director		32 MoReg 142		
11 CSR 40-5.050	Division of Fire Safety		32 MoReg 45		
11 CSR 40-5.065	Division of Fire Safety		32 MoReg 45		
11 CSR 40-5.070	Division of Fire Safety		32 MoReg 50		
11 CSR 40-5.080	Division of Fire Safety		32 MoReg 50		
11 CSR 40-5.090	Division of Fire Safety		32 MoReg 52		
11 CSR 40-5.110	Division of Fire Safety		32 MoReg 52		
11 CSR 45-5.180	Missouri Gaming Commission		31 MoReg 1490	32 MoReg 255	
11 CSR 45-5.190	Missouri Gaming Commission		31 MoReg 1490	32 MoReg 255	
11 CSR 45-5.200	Missouri Gaming Commission		31 MoReg 1490	32 MoReg 256	
11 CSR 45-5.237	Missouri Gaming Commission		31 MoReg 1155	32 MoReg 96	
11 CSR 45-7.030	Missouri Gaming Commission		31 MoReg 1313	32 MoReg 256	
11 CSR 45-7.040	Missouri Gaming Commission		31 MoReg 1315	32 MoReg 257	
11 CSR 45-7.080	Missouri Gaming Commission		31 MoReg 1317	32 MoReg 257	
11 CSR 45-7.120	Missouri Gaming Commission		31 MoReg 1319	32 MoReg 258	
11 CSR 45-11.040	Missouri Gaming Commission		31 MoReg 1491	32 MoReg 258	

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11 CSR 45-11.090	Missouri Gaming Commission		31 MoReg 1492R	32 MoReg 258R	
11 CSR 45-11.110	Missouri Gaming Commission		31 MoReg 1492	32 MoReg 259	
11 CSR 45-12.020	Missouri Gaming Commission		31 MoReg 1493	32 MoReg 259	
11 CSR 45-12.040	Missouri Gaming Commission		31 MoReg 1493	32 MoReg 259	
11 CSR 45-12.080	Missouri Gaming Commission		31 MoReg 1990		
11 CSR 45-12.090	Missouri Gaming Commission		31 MoReg 1494	32 MoReg 259	
11 CSR 45-13.055	Missouri Gaming Commission	32 MoReg 5	32 MoReg 55		
11 CSR 45-30.280	Missouri Gaming Commission		31 MoReg 1990		
	DEPARTMENT OF REVENUE				
12 CSR 10-23.255	Director of Revenue		31 MoReg 1870	This Issue	
12 CSR 10-23.270	Director of Revenue		31 MoReg 1873	This Issue	
12 CSR 10-23.422	Director of Revenue		31 MoReg 1494R	32 MoReg 175R	
12 CSR 10-23.446	Director of Revenue		31 MoReg 1873	This Issue	
12 CSR 10-41.010	Director of Revenue	31 MoReg 1935	31 MoReg 1991		
12 CSR 10-42.110	Director of Revenue		31 MoReg 1994R		
12 CSR 10-43.010	Director of Revenue		31 MoReg 1646	This Issue	
12 CSR 10-43.020	Director of Revenue		31 MoReg 1646	This Issue	
12 CSR 10-43.030	Director of Revenue		31 MoReg 1647	This Issue	
12 CSR 10-400.200	Director of Revenue		31 MoReg 1994		
12 CSR 10-400.210	Director of Revenue		31 MoReg 1998		
12 CSR 10-405.105	Director of Revenue		31 MoReg 2001		
12 CSR 10-405.205	Director of Revenue		31 MoReg 2001		
12 CSR 40-50.050	State Lottery		31 MoReg 1874		
12 CSR 40-80.080	State Lottery		31 MoReg 1875R		
	DEPARTMENT OF SOCIAL SERVICES				
13 CSR 35-100.010	Children's Division	31 MoReg 1623	31 MoReg 1648	32 MoReg 352	
13 CSR 35-100.020	Children's Division	31 MoReg 1628	31 MoReg 1653	32 MoReg 352	
13 CSR 40-79.010	Family Support Division	31 MoReg 1635	31 MoReg 1662	32 MoReg 352	
13 CSR 70-2.100	Division of Medical Services		31 MoReg 1804	This Issue	
13 CSR 70-3.030	Division of Medical Services		31 MoReg 2050		
13 CSR 70-3.180	Division of Medical Services		31 MoReg 1155	32 MoReg 96	
13 CSR 70-6.010	Division of Medical Services		31 MoReg 1326	32 MoReg 175	
13 CSR 70-10.030	Division of Medical Services	32 MoReg 293	32 MoReg 332		
13 CSR 70-15.110	Division of Medical Services	31 MoReg 1052			
13 CSR 70-20.031	Division of Medical Services		32 MoReg 335		
13 CSR 70-20.032	Division of Medical Services		32 MoReg 335		
13 CSR 70-20.034	Division of Medical Services		32 MoReg 335		
	DEPARTMENT OF CORRECTIONS				
14 CSR 80-5.020	State Board of Probation and Parole		31 MoReg 1428	32 MoReg 175	
	ELECTED OFFICIALS				
15 CSR 30-10.010	Secretary of State	31 MoReg 1129	31 MoReg 1160	31 MoReg 1884	
15 CSR 30-10.020	Secretary of State	31 MoReg 1130	31 MoReg 1160	31 MoReg 1885	
15 CSR 30-10.130	Secretary of State	31 MoReg 1132	31 MoReg 1162	31 MoReg 1886	
15 CSR 30-10.140	Secretary of State	31 MoReg 1133	31 MoReg 1163	31 MoReg 1886	
15 CSR 30-10.150	Secretary of State	31 MoReg 1134	31 MoReg 1164	31 MoReg 1887	
15 CSR 30-10.160	Secretary of State	31 MoReg 1135	31 MoReg 1165	31 MoReg 1887	
15 CSR 30-51.180	Secretary of State	This Issue This IssueT This Issue	This Issue		
	RETIREMENT SYSTEMS				
16 CSR 10-5.010	Retirement Systems		31 MoReg 2001		
16 CSR 10-6.060	Retirement Systems		31 MoReg 2002		
16 CSR 50-10.050	The County Employees' Retirement Fund		31 MoReg 1430	32 MoReg 259	
	DEPARTMENT OF HEALTH AND SENIOR SERVICES				
19 CSR 30-20.001	Division of Regulation and Licensure		32 MoReg 336		
19 CSR 30-30.010	Division of Regulation and Licensure		32 MoReg 336		
19 CSR 30-30.020	Division of Regulation and Licensure		32 MoReg 337		
19 CSR 30-40.410	Division of Regulation and Licensure		32 MoReg 338		
19 CSR 30-40.430	Division of Regulation and Licensure		32 MoReg 339		
19 CSR 30-40.450	Division of Regulation and Licensure		31 MoReg 995	31 MoReg 2017W	
19 CSR 30-80.030	Division of Regulation and Licensure		This Issue		
19 CSR 30-82.010	Division of Regulation and Licensure		31 MoReg 1495	This Issue	
19 CSR 30-83.010	Division of Regulation and Licensure		31 MoReg 1499	This Issue	
19 CSR 30-84.030	Division of Regulation and Licensure		31 MoReg 1502	This Issue	
19 CSR 30-84.040	Division of Regulation and Licensure		31 MoReg 1504	This Issue	
19 CSR 30-86.012	Division of Regulation and Licensure		31 MoReg 1504	This Issue	
19 CSR 30-86.022	Division of Regulation and Licensure		31 MoReg 1506	This Issue	
19 CSR 30-86.032	Division of Regulation and Licensure		31 MoReg 1509	This Issue	
19 CSR 30-86.042	Division of Regulation and Licensure		31 MoReg 1514	This Issue	
19 CSR 30-86.043	Division of Regulation and Licensure		31 MoReg 1526	This Issue	
19 CSR 30-86.045	Division of Regulation and Licensure		31 MoReg 1536	This Issue	
19 CSR 30-86.047	Division of Regulation and Licensure		31 MoReg 1540	This Issue	
19 CSR 30-86.052	Division of Regulation and Licensure		31 MoReg 1559	This Issue	
19 CSR 30-87.020	Division of Regulation and Licensure		31 MoReg 1559	This Issue	

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19 CSR 30-87.030	Division of Regulation and Licensure		31 MoReg 1560	This Issue	
19 CSR 30-88.010	Division of Regulation and Licensure		31 MoReg 1565	This Issue	
19 CSR 60-50	Missouri Health Facilities Review Committee				32 MoReg 181 32 MoReg 356
19 CSR 60-50.300	Missouri Health Facilities Review Committee	31 MoReg 1382	31 MoReg 1430	32 MoReg 352	
19 CSR 60-50.400	Missouri Health Facilities Review Committee	31 MoReg 1382	31 MoReg 1430	32 MoReg 353	
19 CSR 60-50.410	Missouri Health Facilities Review Committee	31 MoReg 1383	31 MoReg 1431	32 MoReg 353	
19 CSR 60-50.430	Missouri Health Facilities Review Committee	31 MoReg 1384	31 MoReg 1431	32 MoReg 353	
19 CSR 60-50.450	Missouri Health Facilities Review Committee	31 MoReg 1385	31 MoReg 1432	32 MoReg 353	
19 CSR 60-50.470	Missouri Health Facilities Review Committee	31 MoReg 1386	31 MoReg 1433	32 MoReg 354	
19 CSR 60-50.600	Missouri Health Facilities Review Committee	31 MoReg 1386	31 MoReg 1433	32 MoReg 354	
19 CSR 60-50.700	Missouri Health Facilities Review Committee	31 MoReg 1387	31 MoReg 1434	32 MoReg 354	
19 CSR 60-50.800	Missouri Health Facilities Review Committee	31 MoReg 1387	31 MoReg 1434	32 MoReg 354	
19 CSR 60-50.900	Missouri Health Facilities Review Committee	31 MoReg 1388	31 MoReg 1434	32 MoReg 354	
	DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION				
20 CSR	Medical Malpractice				29 MoReg 505 30 MoReg 481 31 MoReg 616
20 CSR	Sovereign Immunity Limits				30 MoReg 108 30 MoReg 2587 31 MoReg 2019
20 CSR 200-6.300	Financial Examination		31 MoReg 1435	32 MoReg 175	
20 CSR 400-2.135	Life, Annuities and Health		31 MoReg 1566	32 MoReg 176	
20 CSR 400-7.095	Life, Annuities and Health		32 MoReg 142		
20 CSR 500-5.020	Property and Casualty	This Issue	This Issue		
20 CSR 500-5.025	Property and Casualty	This Issue	This Issue		
20 CSR 500-5.026	Property and Casualty	This Issue	This Issue		
20 CSR 500-5.027	Property and Casualty	This Issue	This Issue		
20 CSR 700-6.350	Licensing		31 MoReg 931		
20 CSR 2030-3.060	Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects		31 MoReg 1875	This Issue	
20 CSR 2030-6.015	Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects		32 MoReg 55		
20 CSR 2030-11.015	Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects		31 MoReg 1875	This Issue	
20 CSR 2030-11.025	Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects		31 MoReg 1876	This Issue	
20 CSR 2040-4.040	Office of Athletics *(Changed from 4 CSR 40-4.040)*		31 MoReg 1310	32 MoReg 177	
20 CSR 2040-4.090	Office of Athletics *(Changed from 4 CSR 40-4.090)*		31 MoReg 1310	32 MoReg 177	
20 CSR 2110-2.110	Missouri Dental Board *(Changed from 4 CSR 110-2.110)*		31 MoReg 1395	32 MoReg 178	
20 CSR 2110-2.114	Missouri Dental Board *(Changed from 4 CSR 110-2.114)*		31 MoReg 1395	32 MoReg 178	
20 CSR 2115-2.010	State Committee of Dietitians		32 MoReg 58		
20 CSR 2115-2.050	State Committee of Dietitians		32 MoReg 58		
20 CSR 2120-1.010	State Board of Embalmers and Funeral Directors		This Issue		
20 CSR 2120-1.040	State Board of Embalmers and Funeral Directors		This Issue		
20 CSR 2120-2.010	State Board of Embalmers and Funeral Directors		This Issue		
20 CSR 2120-2.040	State Board of Embalmers and Funeral Directors		This Issue		
20 CSR 2120-2.050	State Board of Embalmers and Funeral Directors		This Issue		
20 CSR 2120-2.071	State Board of Embalmers and Funeral Directors		This Issue		
20 CSR 2120-2.090	State Board of Embalmers and Funeral Directors		This Issue		
20 CSR 2120-2.100	State Board of Embalmers and Funeral Directors		This Issue		
20 CSR 2150-2.125	State Board of Registration for the Healing Arts *(Changed from 4 CSR 150-2.125)*		31 MoReg 1398	32 MoReg 259	
20 CSR 2150-3.010	State Board of Registration for the Healing Arts *(Changed from 4 CSR 150-3.010)*		31 MoReg 1398	32 MoReg 260	
20 CSR 2150-3.203	State Board of Registration for the Healing Arts *(Changed from 4 CSR 150-3.203)*		31 MoReg 1399	32 MoReg 260	
20 CSR 2150-4.052	State Board of Registration for the Healing Arts		31 MoReg 1876		
20 CSR 2150-5.100	State Board of Registration for the Healing Arts *(Changed from 4 CSR 150-5.100)*		31 MoReg 1399	32 MoReg 355W	
20 CSR 2150-6.020	State Board of Registration for the Healing Arts		31 MoReg 1877		
20 CSR 2150-7.135	State Board of Registration for the Healing Arts *(Changed from 4 CSR 150-7.135)*		31 MoReg 1400	32 MoReg 355W	
20 CSR 2165-1.020	Board of Examiners for Hearing Instrument Specialists		31 MoReg 1877	This Issue	

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20 CSR 2193-1.010	Interior Design Council		32 MoReg 148		
20 CSR 2193-1.020	Interior Design Council		32 MoReg 148		
20 CSR 2193-2.010	Interior Design Council		32 MoReg 148		
20 CSR 2193-2.040	Interior Design Council		32 MoReg 149		
20 CSR 2193-3.010	Interior Design Council		32 MoReg 149		
20 CSR 2193-3.020	Interior Design Council		32 MoReg 150		
20 CSR 2193-5.010	Interior Design Council		32 MoReg 150		
20 CSR 2200-4.100	State Board of Nursing *(Changed from 4 CSR 200-4.100)*		31 MoReg 1401	32 MoReg 260	
20 CSR 2200-4.200	State Board of Nursing *(Changed from 4 CSR 200-4.200)*		31 MoReg 1401	32 MoReg 355W	
20 CSR 2210-1.010	State Board of Optometry		32 MoReg 58		
20 CSR 2210-2.011	State Board of Optometry		32 MoReg 59		
20 CSR 2210-2.020	State Board of Optometry		32 MoReg 61		
20 CSR 2210-2.070	State Board of Optometry		32 MoReg 63		
20 CSR 2220-2.010	State Board of Pharmacy *(Changed from 4 CSR 220-2.010)*		31 MoReg 1468	This Issue	
20 CSR 2220-2.020	State Board of Pharmacy *(Changed from 4 CSR 220-2.020)*		31 MoReg 1474	This Issue	
20 CSR 2220-2.025	State Board of Pharmacy *(Changed from 4 CSR 220-2.025)*		31 MoReg 1474	This IssueW	
20 CSR 2220-2.190	State Board of Pharmacy *(Changed from 4 CSR 220-2.190)*		31 MoReg 1479	This Issue	
20 CSR 2220-2.450	State Board of Pharmacy *(Changed from 4 CSR 220-2.450)*		31 MoReg 1479	This Issue	
20 CSR 2220-2.500	State Board of Pharmacy				32 MoReg 99
20 CSR 2220-2.900	State Board of Pharmacy *(Changed from 4 CSR 220-2.900)*		31 MoReg 1482	This Issue	
20 CSR 2220-5.020	State Board of Pharmacy *(Changed from 4 CSR 220-5.020)*		31 MoReg 1485	This Issue	
20 CSR 2220-5.030	State Board of Pharmacy *(Changed from 4 CSR 220-5.030)*		31 MoReg 1485	This Issue	
20 CSR 2232-2.040	Missouri State Committee of Interpreters *(Changed from 4 CSR 232-2.040)*	31 MoReg 1465	31 MoReg 1486	32 MoReg 179	
20 CSR 2235-1.015	State Committee of Psychologists		32 MoReg 150		
20 CSR 2235-1.050	State Committee of Psychologists		32 MoReg 151		
20 CSR 2235-1.063	State Committee of Psychologists		32 MoReg 151		
20 CSR 2235-5.030	State Committee of Psychologists *(Changed from 4 CSR 235-5.030)*		31 MoReg 1212R 31 MoReg 1212	32 MoReg 179R 32 MoReg 179	
20 CSR 2235-7.020	State Committee of Psychologists *(Changed from 4 CSR 235-7.020)*		31 MoReg 1218	32 MoReg 180	
20 CSR 2235-7.030	State Committee of Psychologists *(Changed from 4 CSR 235-7.030)*		31 MoReg 1218	32 MoReg 180	
20 CSR 2245-1.010	Real Estate Appraisers		32 MoReg 63		
20 CSR 2245-1.020	Real Estate Appraisers		32 MoReg 63R		
20 CSR 2245-2.020	Real Estate Appraisers		32 MoReg 64		
20 CSR 2245-2.040	Real Estate Appraisers		32 MoReg 64R		
20 CSR 2245-2.050	Real Estate Appraisers		32 MoReg 64		
20 CSR 2245-3.005	Real Estate Appraisers		32 MoReg 65		
20 CSR 2245-3.010	Real Estate Appraisers		32 MoReg 69		
20 CSR 2245-3.020	Real Estate Appraisers		32 MoReg 72		
20 CSR 2245-4.040	Real Estate Appraisers		32 MoReg 72		
20 CSR 2245-4.050	Real Estate Appraisers		32 MoReg 72		
20 CSR 2245-4.060	Real Estate Appraisers		32 MoReg 73		
20 CSR 2245-5.010	Real Estate Appraisers		32 MoReg 73		
20 CSR 2245-5.020	Real Estate Appraisers		32 MoReg 74		
20 CSR 2245-6.015	Real Estate Appraisers		32 MoReg 77		
20 CSR 2245-6.020	Real Estate Appraisers		32 MoReg 78R		
20 CSR 2245-6.030	Real Estate Appraisers		32 MoReg 78R		
20 CSR 2245-6.040	Real Estate Appraisers		32 MoReg 79		
20 CSR 2245-7.010	Real Estate Appraisers		32 MoReg 81		
20 CSR 2245-7.020	Real Estate Appraisers		32 MoReg 85		
20 CSR 2245-7.030	Real Estate Appraisers		32 MoReg 85R		
20 CSR 2245-7.040	Real Estate Appraisers		32 MoReg 85R		
20 CSR 2245-7.050	Real Estate Appraisers		32 MoReg 86R		
20 CSR 2245-7.060	Real Estate Appraisers		32 MoReg 86		
20 CSR 2245-8.010	Real Estate Appraisers		32 MoReg 86		
20 CSR 2245-8.020	Real Estate Appraisers		32 MoReg 87		
20 CSR 2245-8.030	Real Estate Appraisers		32 MoReg 90		
20 CSR 2245-8.040	Real Estate Appraisers		32 MoReg 90		
20 CSR 2245-8.050	Real Estate Appraisers		32 MoReg 92		
20 CSR 2263-2.032	State Committee for Social Workers		32 MoReg 152		
20 CSR 2263-2.050	State Committee for Social Workers		32 MoReg 154		
20 CSR 2263-2.052	State Committee for Social Workers		32 MoReg 156		
20 CSR 2263-2.060	State Committee for Social Workers		32 MoReg 158		
20 CSR 2263-2.062	State Committee for Social Workers		32 MoReg 160		

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20 CSR 2270-1.021	Missouri Veterinary Medical Board		31 MoReg 1877	This Issue	
20 CSR 2270-4.042	Missouri Veterinary Medical Board		31 MoReg 1881	This Issue	
	MISSOURI CONSOLIDATED HEALTH CARE PLAN				
22 CSR 10-2.010	Health Care Plan	32 MoReg 209	32 MoReg 245		
22 CSR 10-2.060	Health Care Plan	32 MoReg 210	32 MoReg 246		
22 CSR 10-2.067	Health Care Plan	32 MoReg 210	32 MoReg 249		
22 CSR 10-2.090	Health Care Plan	32 MoReg 211R	32 MoReg 252R		

Agency		Publication	Expiration
Department of Transportation			
Missouri Highways and Transportation Commission			
7 CSR 10-25.030	Apportion Registration	Next Issue	August 29, 2007
Department of Natural Resources			
Clean Water Commission			
10 CSR 20-4.023	State Forty Percent Construction Grant Program	This Issue	August 30, 2007
10 CSR 20-4.030	Grants for Sewer Districts and Certain Small Municipal Sewer Systems	This Issue	August 30, 2007
10 CSR 20-4.061	Storm Water Grant and Loan Program	This Issue	August 30, 2007
10 CSR 20-7.050	Methodology for Development of Impaired Waters List	31 MoReg 1845	April 23, 2007
Public Drinking Water Program			
10 CSR 60-13.010	Grants for Public Water Supply Districts and Small Municipal Water Supply Systems	This Issue	August 30, 2007
Department of Public Safety			
Missouri Gaming Commission			
11 CSR 45-13.055	Emergency Order Suspending License Privileges—Expedited Hearing	32 MoReg 5	June 7, 2007
Department of Revenue			
Director of Revenue			
12 CSR 10-41.010	Annual Adjusted Rate of Interest	31 MoReg 1935	June 29, 2007
Highway Reciprocity			
12 CSR 20-3.010	Apportion Registration	Next Issue	August 29, 2007
Department of Social Services			
Children's Division			
13 CSR 35-100.010	Residential Treatment Agency Tax Credit	31 MoReg 1623	March 29, 2007
13 CSR 35-100.020	Emergency Resource Center Tax Credit	31 MoReg 1628	March 29, 2007
Family Support Division			
13 CSR 40-79.010	Domestic Violence Shelter Tax Credit	31 MoReg 1635	March 29, 2007
Division of Medical Services			
13 CSR 70-10.030	Prospective Reimbursement Plan for Nonstate-Operated Facilities for ICF/MR Services	32 MoReg 293	August 1, 2007
Elected Officials			
Secretary of State			
15 CSR 30-51.180	Exemptions from Registration for Broker-Dealers, Agents, Investment Advisors, and Investment Advisors Representatives	This Issue	Terminated March 5, 2007
15 CSR 30-51.180	Exemptions from Registration for Broker-Dealers, Agents, Investment Advisors, and Investment Advisors Representatives	This Issue	August 10, 2007
Department of Insurance, Financial Institutions and Professional Registration			
Property and Casualty			
20 CSR 500-5.020	Medical Malpractice Insurance Rate Filings	This Issue	August 10, 2007
20 CSR 500-5.025	Determination of Inadequate Rates	This Issue	August 10, 2007
20 CSR 500-5.026	Determination of Excessive Rates	This Issue	August 10, 2007
20 CSR 500-5.027	Determination of Unfairly Discriminatory Rates	This Issue	August 10, 2007
Missouri Consolidated Health Care Plan			
Health Care Plan			
22 CSR 10-2.010	Definitions	32 MoReg 209	June 29, 2007
22 CSR 10-2.060	PPO and Co-Pay Plan Limitations	32 MoReg 210	June 29, 2007
22 CSR 10-2.067	HMO and POS Limitations	32 MoReg 210	June 29, 2007
22 CSR 10-2.090	Pharmacy Benefit Summary	32 MoReg 211	June 29, 2007

Executive Orders	Subject Matter	Filed Date	Publication
	2007		
07-01	Authorizes Transportation Director to temporarily suspend certain commercial motor vehicle regulations in response to emergencies	January 2, 2007	32 MoReg 295
07-02	Declares that a State of Emergency exists in the State of Missouri, directs that the Missouri State Emergency Operations Plan be activated	January 13, 2007	32 MoReg 298
07-03	Directs the Adjutant General call and order into active service such portions of the organized militia as he deems necessary to aid the executive officials of Missouri, to protect life and property, and to support civilian authorities	January 13, 2007	32 MoReg 299
07-04	Vests the Director of the Missouri Department of Natural Resources with full discretionary authority to temporarily waive or suspend the operation of any statutory or administrative rule or regulation currently in place under his purview in order to better serve the interest of public health and safety during the period of the emergency and subsequent recovery period	January 13, 2007	32 MoReg 301
07-05	Transfers the Breath Alcohol Program from the Missouri Department of Health and Senior Services to the Missouri Department of Transportation	January 30, 2007	This Issue
07-06	Transfers the function of collecting surplus lines taxes from the Missouri Department of Insurance, Financial Institutions and Professional Registration to the Department of Revenue	January 30, 2007	This Issue
07-07	Transfers the Crime Victims' Compensation Fund from the Missouri Department of Labor and Industrial Relations to the Missouri Department of Public Safety	January 30, 2007	This Issue
07-08	Extends the declaration of emergency contained in Executive Order 07-02 and the terms of Executive Order 07-04 through May 15, 2007, for continuing cleanup efforts from a severe storm that began on January 12	February 6, 2007	Next Issue
	2006		
06-01	Designates members of staff with supervisory authority over selected state agencies	January 10, 2006	31 MoReg 281
06-02	Extends the deadline for the State Retirement Consolidation Commission to issue its final report and terminate operations to March 1, 2006	January 11, 2006	31 MoReg 283
06-03	Creates and establishes the Missouri Healthcare Information Technology Task Force	January 17, 2006	31 MoReg 371
06-04	Governor Matt Blunt transfers functions, personnel, property, etc. of the Division of Finance, the State Banking Board, the Division of Credit Unions, and the Division of Professional Registration to the Department of Insurance. Renames the Department of Insurance as the Missouri Department of Insurance, Financial Institutions and Professional Registration. Effective August 28, 2006	February 1, 2006	31 MoReg 448
06-05	Governor Matt Blunt transfers functions, personnel, property, etc. of the Missouri Rx Plan Advisory Commission to the Missouri Department of Health and Senior Services. Effective August 28, 2006	February 1, 2006	31 MoReg 451
06-06	Governor Matt Blunt transfers functions, personnel, property, etc. of the Missouri Assistive Technology Advisory Council to the Missouri Department of Elementary and Secondary Education. Rescinds certain provisions of Executive Order 04-08. Effective August 28, 2006	February 1, 2006	31 MoReg 453
06-07	Governor Matt Blunt transfers functions, personnel, property, etc. of the Missouri Life Sciences Research Board to the Missouri Department of Economic Development	February 1, 2006	31 MoReg 455
06-08	Names the state office building, located at 1616 Missouri Boulevard, Jefferson City, Missouri, in honor of George Washington Carver	February 7, 2006	31 MoReg 457
06-09	Directs and orders that the Director of the Department of Public Safety is the Homeland Security Advisor to the Governor, reauthorizes the Homeland Security Advisory Council and assigns them additional duties	February 10, 2006	31 MoReg 460
06-10	Establishes the Government, Faith-based and Community Partnership	March 7, 2006	31 MoReg 577
06-11	Orders and directs the Adjutant General to call and order into active service such portions of the organized militia as he deems necessary to aid the executive officials of Missouri, to protect life and property and to employ such equipment as may be necessary in support of civilian authorities	March 13, 2006	31 MoReg 580

Executive Orders	Subject Matter	Filed Date	Publication
06-12	Declares that a State of Emergency exists in the State of Missouri and directs that the Missouri State Emergency Operation Plan be activated	March 13, 2006	31 MoReg 582
06-13	The Director of the Missouri Department of Natural Resources is vested with full discretionary authority to temporarily waive or suspend the operation of any statutory or administrative rule or regulation currently in place under his purview in order to best serve the public health and safety during the period of the emergency and the subsequent recovery period	March 13, 2006	31 MoReg 584
06-14	Declares a State of Emergency exists in the State of Missouri and directs that the Missouri State Emergency Operation Plan be activated	April 3, 2006	31 MoReg 643
06-15	Orders and directs the Adjutant General, or his designee, to call and order into active service portions of the organized militia as he deems necessary to aid the executive officials of Missouri, to protect life and property, and take such action and employ such equipment as may be necessary in support of civilian authorities, and provide assistance as authorized and directed by the Governor	April 3, 2006	31 MoReg 645
06-16	Declares that a State of Emergency exists in the State of Missouri, directs that the Missouri State Emergency Operations Plan be activated	April 3, 2006	31 MoReg 647
06-17	Declares that a State of Emergency exists in the State of Missouri, directs that the Missouri State Emergency Operations Plan be activated	April 3, 2006	31 MoReg 649
06-18	Authorizes the investigators from the Division of Fire Safety, the Park Rangers from the Department of Natural Resources, the Conservation Agents from the Department of Conservation, and other POST certified state agency investigators to exercise full state wide police authority as vested in Missouri peace officers pursuant to Chapter 590, RSMo during the period of this state declaration of emergency	April 3, 2006	31 MoReg 651
06-19	Allows the director of the Missouri Department of Natural Resources to grant waivers to help expedite storm recovery efforts	April 3, 2006	31 MoReg 652
06-20	Creates interim requirements for overdimension and overweight permits for commercial motor carriers engaged in storm recovery efforts	April 5, 2006	31 MoReg 765
06-21	Designates members of staff with supervisory authority over selected state agencies	June 2, 2006	31 MoReg 1055
06-22	Healthy Families Trust Fund	June 22, 2006	31 MoReg 1137
06-23	Establishes Interoperable Communication Committee	June 27, 2006	31 MoReg 1139
06-24	Establishes Missouri Abraham Lincoln Bicentennial Commission	July 3, 2006	31 MoReg 1209
06-25	Declares that a State of Emergency exists in the State of Missouri, directs that the Missouri State Emergency Operations Plan be activated	July 20, 2006	31 MoReg 1298
06-26	Directs the Adjutant General to call and order into active service such portions of the organized militia as he deems necessary to aid the executive officials of Missouri, to protect life and property, and to support civilian authorities	July 20, 2006	31 MoReg 1300
06-27	Allows the director of the Missouri Department of Natural Resources to grant waivers to help expedite storm recovery efforts	July 21, 2006	31 MoReg 1302
06-28	Authorizes Transportation Director to issue declaration of regional or local emergency with reference to motor carriers	July 22, 2006	31 MoReg 1304
06-29	Authorizes Transportation Director to temporarily suspend certain commercial motor vehicle regulations in response to emergencies	August 11, 2006	31 MoReg 1389
06-30	Extends the declaration of emergency contained in Executive Order 06-25 and the terms of Executive Order 06-27 through September 22, 2006, for the purpose of continuing the cleanup efforts in the east central part of the State of Missouri	August 18, 2006	31 MoReg 1466
06-31	Declares that a State of Emergency exists in the State of Missouri, directs that the Missouri State Emergency Operations Plan be activated	September 23, 2006	31 MoReg 1699
06-32	Allows the director of the Missouri Department of Natural Resources to grant waivers to help expedite storm recovery efforts	September 26, 2006	31 MoReg 1701
06-33	Governor Matt Blunt orders all state employees to enable any state owned wireless telecommunications device capable of receiving text messages or emails to receive wireless AMBER alerts	October 4, 2006	31 MoReg 1847
06-34	Governor Matt Blunt amends Executive Order 03-26 relating to the duties of the Information Technology Services Division and the Information Technology Advisory Board	October 11, 2006	31 MoReg 1849
06-35	Governor Matt Blunt creates the Interdepartmental Coordination Council for Job Creation and Economic Growth	October 11, 2006	31 MoReg 1852
06-36	Governor Matt Blunt creates the Interdepartmental Coordination Council for Laboratory Services and Utilization	October 11, 2006	31 MoReg 1854
06-37	Governor Matt Blunt creates the Interdepartmental Coordination Council for Rural Affairs	October 11, 2006	31 MoReg 1856
06-38	Governor Matt Blunt creates the Interdepartmental Coordination Council for State Employee Career Opportunity	October 11, 2006	31 MoReg 1858

Executive Orders	Subject Matter	Filed Date	Publication
06-39	Governor Matt Blunt creates the Mental Health Transformation Working Group	October 11, 2006	31 MoReg 1860
06-40	Governor Matt Blunt creates the Interdepartmental Coordination Council for State Service Delivery Efficiency	October 11, 2006	31 MoReg 1863
06-41	Governor Matt Blunt creates the Interdepartmental Coordination Council for Water Quality	October 11, 2006	31 MoReg 1865
06-42	Designates members of staff with supervisory authority over selected state departments, divisions, and agencies	October 20, 2006	31 MoReg 1936
06-43	Closes state offices on Friday, November 24, 2006	October 24, 2006	31 MoReg 1938
06-44	Adds elementary and secondary education as another category with full membership representation on the Regional Homeland Security Oversight Committees in order to make certain that schools are included and actively engaged in homeland security planning at the state and local level	October 26, 2006	31 MoReg 1939
06-45	Directs the Department of Social Services to prepare a Medicaid beneficiary employer report to be submitted to the governor on a quarterly basis. Such report shall be known as the Missouri Health Care Responsibility Report	November 27, 2006	32 MoReg 6
06-46	Declares that a State of Emergency exists in the State of Missouri, directs that the Missouri State Emergency Operations Plan be activated	December 1, 2006	32 MoReg 127
06-47	Directs the Adjutant General call and order into active service such portions of the organized militia as he deems necessary to aid the executive officials of Missouri, to protect life and property, and to support civilian authorities	December 1, 2006	32 MoReg 129
06-48	Vests the Director of the Missouri Department of Natural Resources with full discretionary authority to temporarily waive or suspend the operation of any statutory or administrative rule or regulation currently in place under his purview in order to better serve the interest of public health and safety during the period of the emergency and subsequent recovery period	December 1, 2006	32 MoReg 131
06-49	Directs the Department of Mental Health to implement recommendations from the Mental Health Task Force to protect client safety and improve the delivery of mental health services	December 19, 2006	32 MoReg 212
06-50	Extends the declaration of emergency contained in Executive Order 06-46 and the terms of Executive Order 06-48 through March 1, 2007, for the purpose of continuing the cleanup efforts in the affected Missouri communities	December 28, 2006	32 MoReg 214

The rule number and the MoReg publication date follow each entry to this index.

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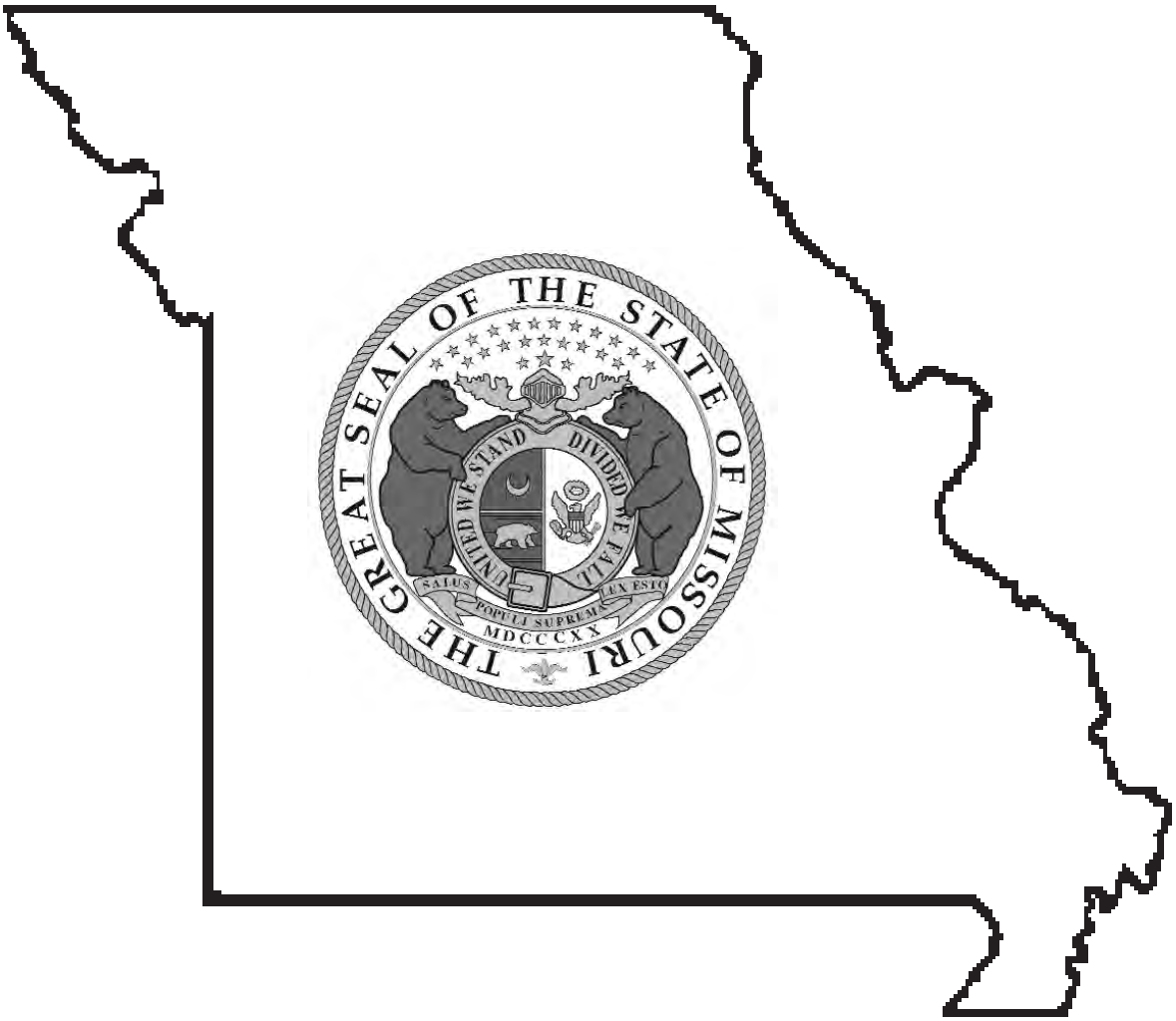

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